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(Sgd.) *R.P. O'Brien*

Date *12/8/70*

FOREIGN AND COMMONWEALTH
OFFICE

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NEAR EASTERN

FILE No. **NE** *Q* 3/324/1 (153-
(Part C))

TITLE: *Iraqi/Iran Political Relations.*

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Q 3/324/1

NE
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153

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CONFIDENTIAL

ROUTINE AMMAN

TO FOREIGN AND COMMONWEALTH OFFICE

TELEGRAM NO. 315

17 JUNE 1969



CONFIDENTIAL.

ADDRESSED TO FCO TELNO. 315 OF 17 JUNE, RFI TO BAGHDAD TEHRAN WASHINGTON AND UKMIS NEW YORK.

147
MY TELNO. 294 : SHATT EL - ARAB DISPUTE.

LOCAL PRESS HAS FOR SOME DAYS BEEN ANNOUNCING THE IMMINENT OPENING OF IRAQI/IRANIAN TALKS IN AMMAN.

2. JORDANIAN PRIME MINISTER TOLD ME THIS MORNING THAT THE DELAY WAS DUE TO THE IRANIAN INSISTANCE ON REGARDING THE THALWEG AS THE POINT OF DEPARTURE. EACH SIDE WAS URGING HIM TO INTERVENE WITH THE OTHER ON ITS BEHALF. HE HAD NO INTENTION OF BECOMING INVOLVED TO THAT EXTENT AND THOUGHT THAT THERE WAS STILL A FAIR CHANCE THAT THE PARTIES WOULD THEMSELVES FIND A WAY TO START TALKS.

FCO PASS TO BAGHDAD TEHRAN WASHINGTON AND UKMIS NEW YORK.

SIR P. ADAMS

[REPEATED AS REQUESTED]

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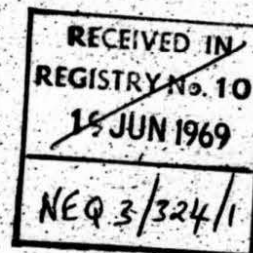
PRIORITY BAGHDAD

TO FOREIGN AND COMMONWEALTH OFFICE

154

TELNO 558

18 JUNE 1969



CONFIDENTIAL

ADDRESSED TO FCO TELNO 558 OF 18 JUNE RFI TEHRAN AMMAN
AND SAVING TO CAIRO JEDDA AND BEIRUT

MY TELNO 503- SHATT AL ARAB DISPUTE

SHEIKHLY, THE MINISTER OF FOREIGN AFFAIRS, TOLD MY
COMMERCIAL COUNSELLOR ON 14 JUNE THAT THE IRAQIS WERE PERFECTLY
WILLING TO NEGOTIATE ON THIS ISSUE AND EVEN WILLING TO AGREE
TO AMENDMENTS TO THE 1937 TREATY. HOWEVER, THEY COULD NOT
ACCEPT IRAQ'S UNILATERAL ABROGATION OF THE 1937 TREATY AS
A STARTING POINT FOR NEGOTIATIONS AS THIS WOULD WEAKEN THEIR
INITIAL POSITION TOO MUCH.

2 MY IRANIAN COLLEAGUE HAD A LONG AND APPARENTLY AMICABLE
CONVERSATION WITH AMASH AND SHEIKHLY. THEY WERE LATER JOINED
BY TAKRITI.

FCO PASS AS PREAMBLE

MR. EVANS

[REPEATED AS REQUESTED]

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T
B21 IRAQI MINISTRY APPEALS TO IRANIANS TO RETURN

NE
CIRAQI NEWS AGENCY) BAGHDAD: ACTING ON INSTRUCTION FROM PRESIDENT AL-BAKR, THE IRAQI INTERIOR MINISTRY HAS ISSUED A STATEMENT CALLING ON IRANIAN CITIZENS WHO RECENTLY LEFT IRAQ TO RETURN AND RESUME THEIR NORMAL LIFE. THE STATEMENT SAYS THAT IRAQ ALWAYS WELCOMES IRANIAN VISITORS AND IS PREPARED TO EXTEND EVERY ASSISTANCE TO THEM. IRAQ IS PREPARED TO GRANT RESIDENCE PERMITS TO ALL IRANIAN CITIZENS WHO LIVED IN IRAQ PREVIOUSLY AND HAVE FAMILY, TRADE, SCIENTIFIC, OR RELIGIOUS TIES THERE.

THE STATEMENT WAS ISSUED FOLLOWING A MESSAGE RECEIVED BY PRESIDENT AL-BAKR FROM IRANIAN OPPOSITION LEADER TAYMUR BAKHTIAR, IN FLORENCE, EXPOSING THE LIES SPREAD BY THE SHAH'S INFORMATION MEDIA.

END BBC MON 1500 19/6 JM (KY)

PR. H.

(155)

Mr. Secord

then neg
to be.

AWA. ab

2316

RECEIVED IN

REGISTRY No. 10
JUN 1969

NEQ 3/24/

NEQ 3/324/1

KAYHAN INTERNATIONAL

15 JUNE, 1969

Hoveyda on Shatt crisis talks:

Iran ready 'any time anywhere'

19/6

from HALEH ESFANDIARI

ISTANBUL, Saturday.

PRIME Minister Amir Abbas Hoveyda said here yesterday

Iran was prepared to discuss the Shatt dispute with Iraq at "any moment and anywhere" provided these talks were based on international law and justice.

Speaking at a press conference here, Hoveyda stressed that the 1937 Shatt Treaty had been concluded by Iran under pressure, and even then Iraq had failed to abide by the main clauses of the agreement.

As a result, the treaty had become null and void because its provisions had not been implemented, Hoveyda said. He said that it was clear to all who understood or studied international law that the treaty had been forced upon Iran and that it contradicted international principles.

Asked about Jordanian mediation efforts between Iran and Iraq, Hoveyda said the topic was discussed during King Hussein's recent visit to Tehran. "We told our Jordanian friends," he said, "that we are prepared to hold talks with the Iraqis at any moment and anywhere they like."

The Premier said the Shatt issue was raised during his talks with Turkish

authorities, but he denied that Ankara was mediating between Tehran and Baghdad.

Hoveyda then said Iran was opposed to the influence of non-littoral powers in the Persian Gulf after Britain's troop withdrawal in 1971.

Iran enjoyed certain rights in the Persian Gulf and was also opposed to any new thrust by non-littoral powers seeking to replace Britain in the Persian Gulf.

He denied categorically that Iran had any intention of stepping into Britain's shoes after the pullout. "We do not have any colonial or imperialistic ambitions," he emphasized, "and we shall make sure that no power will replace the British."

The littoral powers should co-operate in safeguarding the peace and stability of the region and to prevent the British from returning under a new guise, while keeping the Russians and the Ameri-

(Contd. on page 8 Col. 3)

Iran

(Continued from page 1)

cans out as well, Hoveyda told the pressmen.

Asked about Iran's relations with the Soviet Union, Hoveyda said that Iran essentially followed a policy of independent nationalism. This meant that Iran would follow any line that was in keeping with the nation's interests.

He described Iran's relations with the Soviet Union as "close and friendly," stressing that the Soviet Union constituted a good market for Iranian exports.

This, he said, was "good for Iranian interests." Hoveyda then referred to the recent display of Iranian products at the Moscow Trade Fair to explain that Iran would be selling more goods to Russia as a result of this exhibition.

He also outlined the many-phased economic and technical co-operation projects between Iran and the Soviet Union, including the pipeline that will pump considerable quantities of gas to Russia from Iran's southern fields.

On the Arab-Israeli situation, Hoveyda stressed that Iran would support any move that would result in a peaceful solution of the Middle East conflict on the basis of the U.N. resolutions of November, 1967.

He also referred to the Shahanshah's statement at Ankara Airport shortly after the six-day Arab-Israeli war, in which the Monarch had said that the days of territorial gains through the use of force were over.

Hoveyda went on to stress Iran's support for the continuation of U.N. special envoy Gunnar Jarring's peace mission.

Asked what he thought about Communist incursions in the Middle East, Hoveyda said Iran was strongly opposed to "imported ideology." "We don't attach much importance to formal divisions of politics into the left and right. In Iran we are preparing ourselves for the year 2000. In this technological world, we are trying to take shortcuts so that we can reach the level of the most advanced nations before the end of this century. I think all other developing nations should also take this course and follow an independent national policy."

On Irano-Turkish relations, Hoveyda said Iran was seeking expanded relations with Turkey, especially in reaching agreement on transit facilities through Turkey.

He reiterated that Iran wished to use the Black Sea port of Trebizond to handle Iran's exports and imports to and from Europe.

Iran was also interested in getting her oil to a Mediterranean port through a pipeline. Details of such an agreement were to be discussed, Hoveyda said during his 90-minute press conference.

NIOC deputy Managing Director Reza Fallah, who is accompanying Hoveyda on the visit, told me that working groups are to be set up by Iran and Turkey to prepare a plan for the construction of the pipeline. The 1,700-kilometre pipeline, which would cost around \$540 million, would connect the oilfields in Ahwaz to the Turkish Mediterranean port of Iskenderun.

Investment in the project will be proportional to the length of the pipeline in each country's territory, Fallah explained. This would mean that Iran would supply some 65 per cent of the capital, which is

to be raised in Europe, Fallah added.

Tonight, Hoveyda was guest of honour at a reception hosted by Prime Minister Suleyman Demirel and Mrs. Demirel in Istanbul. He is due to return to Tehran tomorrow (Sunday) afternoon.

Last night, he was guest of honour at a reception hosted by Turkish Foreign Minister Ihsan Sabri Caglayan who paid tribute to the progress Iran had achieved under the Shahanshah's leadership.

Hoveyda told journalists that his talks with Turkish officials had produced "innumerable benefits" towards a further expansion of Irano-Turkish relations.

The wide-ranging discussions had shown that "no points of difference exist between us," Hoveyda said.

In reply to a Turkish reporter who complained that the Iranian press at times published articles against Turkey, Hoveyda said there was no question of telling the press what to do. "In any case," he added, "the Turkish press also publishes articles which are critical of our Government."

Hoveyda thanked the Turkish people and Govern-

ment for the hospitality shown him and members of his delegation. He stressed the interests that linked Iran and Turkey together had "very ancient historical roots" which preserved the peace of the region.

The Premier praised the progress Turkey has made in recent years and expressed confidence that the tempo of Turkish economic growth would continue to increase in coming years.

Baghdad press Extract.

6.16.69.

NEQ 3/324/1.

- 3 -

Al-Jumhuriyah: (contd.)

Dr. Abdullah al Khidhayyir, Minister of Unity, left Aden yesterday on his way to Kuwait having delivered a personal message from President Bakr to Saiyid Faisal Abdul Latif, Vice-President and Prime Minister of the Republic of Southern Yemen. The latter delivered to the Iraqi Minister a message in reply to President Bakr. The Associated Press reports that the message embodied the support of the Republic of Southern Yemen to the attitude taken by the Iraqi Government in connection with the crisis on Shatt-el-Arab.



cc. Mr Ayres (AMET)

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26 JUN 1969

NEQ 3/324/1

25 June, 1969

Our reference: FSR 1606 G

Your reference:

You may recall our discussions on the telephone last month about pilotage on the Shatt-al-Arab river.

You will wish to be aware that in a Note circulated at the end of May to Diplomatic Missions in Baghdad, including the British Embassy, the Iraqi Ministry of Foreign Affairs stressed the need for vessels to comply with Iraqi regulations governing navigation in the Shatt-al-Arab.

I understand from my conversations with British India and Strick and Ellerman, which I believe are the principal British companies serving that area, that their vessels already follow pilotage procedures in the river in accordance with the instructions laid down by the Iraqi authorities so there appears to be no special action required in response to the Iraqi Government's Note.

(M. J. A. Cochlin)

Reg ca
PMM
26/6

D. Deacon, Esq.,
Chamber of Shipping of the United Kingdom,
30/32 St. Mary Axe,
London, E.C.3.

PRM (157)

B27 SHATT AL-ARAB: IRAQ BLACKLISTS W. GERMAN SHIP

CR.N.S., BEIRUT) BAGHDAD: IRAQ'S HIGHER COMMITTEE ON SUPPLIES HAS DECIDED TO BLACKLIST THE WEST GERMAN SHIP +HEIMAT+ AND TO BAN DEALINGS WITH IT IN IRAQ. THE DECISION IS SAID TO HAVE BEEN MADE BECAUSE LAST MONTH THE SHIP ENTERED THE SHATT AL-ARAB FLYING THE IRANIAN FLAG, WITH AN IRANIAN PILOT ON BOARD AND UNDER IRANIAN NAVAL PROTECTION. THE VQSEL WAS GOING TO ABADAN AND IT FAILED TO OBEY AN OFFICIAL IRAQI ORDER TO

IN A STATEMENT ISSUED YESTERDAY, THE COMMITTEE SAID +THE SHIP'S ACTION IS CONSIDERED A VIOLATION OF INTERNATIONAL LAW AND PRACTICES+.

END BBC MON 25/6 1527 (KY) SWD

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UNITED NATIONS
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23/6
Mr. Mahinson
Mr. Acland
Mr. Munn
Distr.
GENERAL

S/9200/Add.1
15 May 1969

ORIGINAL: ENGLISH

LETTER DATED 9 MAY 1969 FROM THE PERMANENT REPRESENTATIVE OF
IRAN ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Annexes*

I

STATEMENT DATED 27 APRIL 1969, ISSUED BY THE IMPERIAL MINISTRY
OF FOREIGN AFFAIRS

As it has been officially announced by the Imperial Government of Iran, since the important clauses of the Frontier Treaty of 1316 (1937) between Iran and Iraq, throughout the thirty-two years since its conclusion, has been kept unheeded by the Iraqi Government in spite of the repeated efforts and requests of the Imperial Government, and since the Iraqi Government has resorted to stalling tactics in order to refrain from implementing its terms, the said treaty has therefore been practically abrogated by the Government of Iraq, the Imperial Government in accordance with the definite principles of international law considers that treaty as valueless, ineffective, and non-valid.

Furthermore, with due regard to the historical precedents since the conditions which were in force at the time of the conclusion of the treaty, when British colonialism used all its strength to protect Iraq, inserting various clauses in that agreement, such as clause 4 of the protocol annexed to that treaty ascertaining the special obligations of Iraq towards Britain have changed, it is obvious therefore that their effects, results and outcome have also become unacceptable, and the gifts handed over by colonialism must also disappear.

* On 15 May 1969 the Permanent Representative of Iran transmitted these two annexes to his letter of 9 May for reproduction; they were supplied in English translation from the original Persian.

In accordance also with the legal principle of rebus sic stantibus, which recognizes the changes of circumstances existing at the time of the conclusion of any treaty as reasons for the invalidity and valuelessness of such a treaty the forced and unequal treaty of 1316 can no longer be valid and effective. This is especially so in case of Shatt-al-Arab, the greatest portion of whose waters have their sources in Iranian mountains, where the principle of equality of rights between the signatories of the treaty, a principle observed in all treaties, has not been observed at all.

As it has been officially announced, the Imperial Government of Iran, following the instructions and the peaceful intents of His Imperial Majesty Shahanshah Aryamehr, has the inclination and is prepared at the same time to start immediate negotiations, even tomorrow, with the Government of Iraq for the consolidation of the frontiers in Shatt-al-Arab on the basis of Talweg line, which is the accepted international principle, and to sign a new treaty. The Imperial Government is also prepared, if the Government of Iraq shows goodwill to end the state of emergency now ruling in the frontier area because of the threats from the Government of Iraq, provided that such an action is reciprocated, and to order all its forces dispatched to the frontier to return to their bases.

The Imperial Government deems it necessary to emphasize at the same time that if during the interval or at any other time there should be any attempt to insult the Imperial Flag of Iran or any prevention is made against the free passage of ships in Shatt-al-Arab any such actions will be met with a severe reaction, and the Imperial Government, bound by its sacred duty, will of necessity remove any obstacle or impediment. The Government of Iraq will be responsible for any grave consequences which might result from their aggressive policy with regard to Shatt-al-Arab.

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II

STATEMENT DATED 3 MAY 1969, MADE BY THE IMPERIAL MINISTRY
OF FOREIGN AFFAIRS WITH REGARD TO SHATT-AL-ARAB

With reference to the recent statements made by the Iraq authorities, the spokesman of the Imperial Ministry of Foreign Affairs said today:

"On 1 May 1969, Radio Baghdad, quoting the spokesman of the Iraqi Foreign Ministry, made certain statements concerning the valueless Frontier Treaty of 1316 and the recent crisis in Irano-Iraqi relations. Nothing new was noticed in these statements and they were only a repetition of the same baseless, distorted and contradictory matters which have been repeatedly stated in a parrot-like manner by Iraq since the beginning of the crisis. The Iraqi Foreign Ministry's spokesman says that after Iraq obtained freedom, independence, and sovereignty, and was separated from the Ottoman Empire, Iran claimed the nullity of the Constantinople Protocol, Iraq complained to the League of Nations about that claim and, as a result, the Frontier Treaty of 1316 was concluded.

"It looks as though the Iraqis either have not referred to the file of the case, or have deemed it convenient not to disclose all the political moves which were then being made behind the scenes; for, in accordance with the former League of Nations documents, Iraq complained in 1934 to the League of Nations on the support of its protector Government, in order to prevent Iran from exercising her sovereign rights in Shatt-al-Arab. During the time the matter was before the League for discussion and even after that, the British Empire was supporting Iraqi arguments by all means and with every diplomatic device. Finally the Frontier Treaty, which is imperialistic in nature, was signed in 1937 with the direct assistance of the British Empire.

"It is not out of place to recall the fact that when the quasi-independent Iraq made a request for membership in the League of Nations, the representative of Iran stated that Iraq must settle her frontier disputes with Iran, and the Iraqi representative promised that his Government would do so. Again, in accordance with a document which is at hand, when Iraq obtained her quasi-independence, the British Government, i.e., the protector of Iraq, approached the Government of Iran with a view to making the latter Government officially recognize the independence of Iraq, giving assurance that, provided Iran recognized Iraq's independence, she would enter into negotiations over the Shatt-al-Arab question so that the sound and logical requests of Iran should be obtained.

"The above details lead to the conclusion that Iran was not dealing with Iraq at that time, rather was she confronted with the British Empire, which had the string in hand to move her puppet as her own interests

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dictated, bestowing quasi-independence on her and preparing for her, behind the scenes, a treaty which would be to her advantage. The Iraqi spokesman has brought forward, in another connexion, the question of the Erzerum Treaty and the Constantinople Protocol. It should be known that in none of the above documents is there any asserted mention of the question of sovereignty and the delimitation of the frontier line between Iran and the Ottoman Empire. The method adopted by the Governments of Iran and the Ottoman Empire in the case of Shatt-al-Arab, since the commencement of navigation in that river, and probably much earlier than that, had been for the two Governments to exercise jointly their sovereign rights in Shatt-al-Arab up to the point where both banks of the river came within the dominion of the Ottoman Empire.

"As far as the validity of the Erzerum Treaty and the Constantinople Protocol is concerned, it seems as though the Iraqi authorities have no information about the statements made by the delegates of the Soviet Union and Turkey, i.e., the two signatories of the treaty, when the dispute between Iran and Iraq over the Shatt-al-Arab came before the League of Nations. Mr. Litvinoff, then the Foreign Minister of the Soviet Union, stated in the League Council that:

'In the documentation presented to the council by both parties as well as in the statements made here by their representatives, Russia is mentioned as having been a party to the arrangements between the Ottoman Empire and Persia regarding their frontiers. These are facts. The Treaty of Erzerum and the Protocol of Constantinople bear the signatures of representatives of the then Russian Government.

'I therefore feel bound to declare that, whatever action the old Imperial Government of Russia thought fit to take in interfering with the delimitation of the frontier between two other States, the present Soviet Government has nothing to do with the policy or the interests which prompted such action.'

"The view of Mr. Rushdi Aras, then the Foreign Minister of Turkey, was as follows:

'Since the documents that have been mentioned bear the signature of the Ottoman Empire and the parties have referred several times to my country, on this point I desire to explain that I am in the same position as Mr. Litvinoff.'

"Thus the Iraqi Government must know that over and above the statements made by the heirs to the signatories of the Treaty, the Government of Iran has always considered the two documents as blemished and has not recognized them as creditable. As far as the valueless Treaty of 1316 is concerned, it must be noted that at that time the Government of Iraq either took written instructions from the British

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Government on a great many matters or asked for advice from that Government. In the question of fixing the Talweg line as the common frontier, a letter from the British Admiralty is in hand, which shows that in order to safeguard British interests the British Government preferred to leave the Shatt-al-Arab in the hands of its puppet Government, i.e., the Government of Iraq, which did not agree with fixing the common frontier at the Talweg line.

"The Government of Iraq should know that, firstly, even in the same treaty unquestionable rights have been envisaged for Iran and, secondly, on perusal of the treaty it becomes quite clear that Iraq has had no absolute right of sovereignty over the Shatt-al-Arab.

"Does the Iraqi spokesman of the Foreign Ministry, who claims to speak with knowledge and logic know that, when any large navigable river connected with the sea is a common frontier between two countries, the frontier line in that river is fixed, in accordance with current international practice, on the median or Talweg line, even if one drop of the water of that river may not have its source in one of the two riparian countries, let alone Shatt-al-Arab, 67 per cent of whose waters come from sources in Iran? Can the responsible authorities of Iraq state what happens to the waters of a large navigable river like the Karun, which meets Shatt-al-Arab in Khorramshahr? Do its waters return to Iran or flow into Shatt-al-Arab? If they flow into Shatt-al-Arab, has the Government of Iran any right over its own waters? Supposing all the Shatt-al-Arab waters belong to Iraq and the frontier is fixed where the Shatt-al-Arab water touches the dry lands of the coast. What frontier line could be envisaged in the case of a flood? In that case have the Iraqis invented a new principle by saying the frontier is in constant change?

"The flowing waters of the rivers cannot belong solely to one of the two riparian countries.

"The Iraqi Government, which has practically abrogated the 1937 Treaty, and which has not so far seen fit to answer Iran's contention that it has not implemented clauses 4 and 6 of the Treaty and clause 2 of the Protocol attached to it - thus annulling those clauses - now speaks of the principle of honouring obligations. This principle is resorted to by a Government which has practically annulled it in the case of the Treaty of 1316. The spokesman of the Iraqi Foreign Ministry says that at the time of the conclusion of the Treaty, i.e. in the years 1936 and 1937, Iraq was under the pressure of colonialism, and the Treaty was signed in such a situation, resulting in Iraq's waiving the loss of a part of her territory. The first part of this announcement is just what we have been saying all along: namely that Iraq was under British domination. On the second part of the statement, however, the question arises - if such a concession on the part of Iraq was true, and colonialism neglected to give its usual support to its own puppet

/...

Government, how was it that the British Admiralty was opposed to fixing the frontier in Shatt-al-Arab on the Talweg line? Is this not an eloquent proof of the colonial nature of the Treaty? How can the Government of Iraq, which quite clearly states that the Treaty was concluded when Iraq was under the domination of colonialism, insist upon keeping the effects, outcome and the gifts of colonialism against all the principles of international law in force everywhere?

"The Under-Secretary of the Ministry of Foreign Affairs of Iraq, on 26 Farvardin last, threatened the Ambassador of His Imperial Majesty Shahanshah Aryamehr with lowering the flags hoisted on the ships, forcefully ejecting the members of Iran's naval forces from the ships and with preventing from entering into Shatt-al-Arab all boats sailing into Shatt-al-Arab which have Iranian ports as their destination. The Iraqi Government has thus created the present crisis with its threats. Does the Government of Iraq expect the Government of Iran to surrender to such a threat; to allow the flag of Iran and her national honour to be insulted; and to keep silent and show no reaction to the threat to prevent ships from sailing to Iranian ports?

"It is amusing to note that on the one hand the official representative of the Government of Iraq states that Iraq will not resort to force in settling the dispute with Iran and that it wishes to adopt peaceful methods while, on the other hand, the Under-Secretary of the Iraqi Ministry of Foreign Affairs announces that the flag of Iran will be lowered by force. Which of the two contradictory statements must be accepted and which should be considered as the truthful one?

"The propaganda machine of the Government of Iraq says that the build-up of Iranian armed forces on the frontiers will weaken Iraq against Israel. This indicates that Iraq has strengthened her armed forces against Iran and has brought them to fighting preparedness. Iraq has also stated on another occasion that it has not dispatched even one single additional member of its armed forces to the frontiers. Which of the two above contradictory statements tallies with the truth, and should be accepted?

"The Iraqi Government should know that the strengthening of the armed forces on the frontiers is not a matter which can be concealed, and should not imagine the Government of Iran to be ignorant of the slightest detail of such an action.

"It would be preferable if, instead of torturing and creating hardships for Iranian pilgrims and women, creating an atmosphere of crisis and resorting to false accusations instead of a logical, sound and rational reply, the Government of Iraq, which stated quite clearly that its country had been under the domination of British imperialism in 1936 and 1937, would admit the interference of the British Government in the formation of this Treaty; and, as it claims to have wiped out imperialism,

/...

would also consider the outcome of colonialism as annulled. It would be far better for Iraq to resort to the principle established by international law in settling its dispute with Iran, to refrain from making useless efforts to revive the abrogated imperialistic Treaty of 1937 - which no power on earth can again force upon Iran - and to refrain from creating such a critical situation - which will definitely produce no advantage for Iraq - with a neighbour who wishes nothing but the well-being and prosperity of that country."

RESTRICTED

Reference.....

158

RECEIVED IN
REGISTRY No. 10
26 JUN 1969

NEQ 3/324/1

Mr. Hinchcliffe

Shatt al Arab

Security Council Document S/9200/Add.1

I do not recall seeing a summary of this document. It goes into even more detail of the charges that Britain supported Iraq and was responsible for the drawing up of the 1937 Agreement. It states that the British Empire was supporting Iraqi arguments by all means and with every diplomatic device and that Iran was not dealing with Iraq but was confronted with the British Empire. And so on.....

2. I suppose that the right course is to let sleeping dogs lie particularly since the heat seems to be going out of the present dispute. Nevertheless I am afraid that the Iranians are convincing themselves that we accept their charges and that our silence is an admission of guilt. This in spite of what has been said here and in Tehran.

3. I think that Middle East Section of Research Department should have a copy of the Security Council Document and perhaps they could briefly consider how the charges made match the facts as we see them.

[Signature]

(A. A. Acland)
25 June, 1969.

Copy to:

Mr. Paul,
(Middle East Section, Research Department)
Mr. Makinson (o.r.) *Jan 30/6*

*Copy passed to Mr Paul on 25/6 B.V.
When Research Department produce the paper.
Mr Makinson will need to see the attached
document o.r.*

PMMA 25/6

RESTRICTED

27 June, 1969

(NEQ 3/32A/1)

Shatt al Arab

Ayres in A.M.T.D. suggested that I pass on to you the latest state of play on this dispute as seen by our Embassy in Tehran.

2. It seems that there is a considerable relaxation (in military terms) as far as the Iranians are concerned. On the navigational issue a tacit understanding on the "new" status quo is in existence under which Iranian ships and those on charter to Iran fly the Iranian flag and carry an Iranian pilot, while all other ships fly the Iraqi flag and proceed as they always have done - (The Iranians have a practical problem because there appears to be only one Iranian Pilot capable of doing the job!)

(P.R.M. Hinchcliffe)

M.J.A. Cochlin, Esq.,
Board of Trade
Shipping Policy Division,
1 Victoria Street,
London, S.W.1.

Registry
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DRAFT FM LETTER

Type 1 + 2

SECURITY CLASSIFICATION

~~Top Secret.~~
~~Secret.~~
Confidential.
~~Restricted.~~
~~Unclassified.~~

PRIVACY MARKING

In Confidence

To:—

MJ.A COCHLIN.

BOARD OF TRADE

SHIPPING POLICY DIVISION

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LONDON

SECRET AC ARAB

IN AM.T.P.

Ayres ^{in AM.T.P.} suggested that I have in
to you the latest status of play
on this dispute as seen by our
Embassy in Tehran.

It seems that there is a
considerable relocation (in military terms)
as far as the Iranians are concerned. On
the navigational unit a ~~trans~~ tacit
understanding as to "new" status
quo is in existence under which:

Iranian ships are there on charter
to Iran fly to Iranian flag and
carry on Iranian heliot, while
all other ships fly to Iraqi flag and
proceed as they always have done. — (The
Iranians have a historical problem because
there appears to be only one Iranian
Pilot capable of doing the job!)

DRAFT

TO
ISSUE

PMH

25/6

Mr Ayres 1/24/6

AMT.O FIRST

(A copy of
TEHRAN
Messing letter

to us - 3/40

of 19 June has
been sent to
Mr Heath)

NOTHING TO BE WRITTEN IN THIS MARGIN

ATA CACALIN
BT
SUMMARY FROM AMMAN
1 VIC 55, London.

SECRET

160



BRITISH EMBASSY

TEHRAN

19 June, 1969.

(3/40)

No. 10
27 JUN 1969
NEQ 3/324/1

P1. copy to
Mr H. C. (AMID)

AMM 23
9.03
23.6
Mr. [unclear]
Mr. [unclear]
Mr. [unclear]
24/6

My dear Peter.

Mr. [unclear]
3/6 true ok.
P.A.

There is no evidence here that the Jordanians have got any further in their mediation between Iran and Iraq over the Shatt al-Arab. The Deputy Foreign Minister, Afshar, told the Ambassador on 16 June that there were no talks going on in Amman. The Shah told a member of the Embassy on 17 June that he was waiting for a "sensible" reply to the message which the Iranian Ambassador in Amman had been instructed to convey, which is presumably the one reported in Amman Telegram No. 294 of 4 June. It is a fair summary that the Iranians regard the Thalweg as the point of departure, as put in Amman Telegram No. 315. Neither the Shah nor Afshar envisage making any progress on negotiations in the near future until there is a stronger Government in Baghdad.

2. Meanwhile there is a considerable relaxation in the degree of military alertness on the Iranian side of the Shatt. Most of the army units are now back in Ahwaz, though there are still a few tanks and trucks scattered around. As for navigation on the Shatt itself, there seems to be a tacit understanding on the "new" status quo under which Iranian ships and those on charter to Iran fly the Iranian flag and carry an Iranian pilot, while all other ships fly the Iraqi flag and proceed as they always have done. (The Iranians have a practical problem, because there appears to be only one Iranian pilot capable of doing the job!) You can see a more detailed account of the situation at Khorramshahr in the Naval Attache's report to the Ministry of Defence (TEH/S.199) of 16 June (not copied).

Yours ever

Donald

(D. F. Murray)

J. P. Tripp, Esq.,
Near Eastern Department,
F.C.O.

cc: B.L. Strachan, Esq., Amman.
P. McKearney, Esq., Baghdad.
A.D. Parsons, Esq., C.M.G., M.V.O., M.C., New York.
A.B. Urwick, Esq., Washington.

SECRET

CONFIDENTIAL

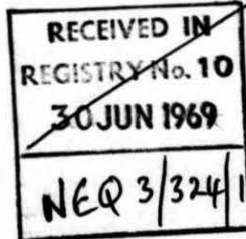
161



BRITISH EMBASSY

TEHRAN

(3/40)



19 June, 1969.

John 3/6
Rag
in Hinchcliffe *MM*
30/6

Dear Donald,

Irano/Iraqi Relations

At the Queen's Birthday Party on 14 June, the Counsellor of the Iraqi Embassy, Abdul Malik Zaibak, told Roger Eland that as far as he knew, little progress had been made towards arranging any kind of Iranian/Iraqi talks in Amman, as the Press has been expecting. Eland asked Mr. Al-Zaibak whether there was any truth in the story that an Iranian journalist had told him that the Iraqis were insisting that any discussions on the Shatt should only cover the subject of shipping in the River. Eland added that according to this story the Iraqis were only prepared to discuss the subject on the basis of the new status quo of shipping in the River mouth which had come about as a result of Iranian actions since the crisis blew up. Zaibak replied that as far as he knew, Iraq would not be prepared to consider even that. They stood pat on the 1937 Treaty and discussions could only be on that basis. When Eland said that in that case there would not seem to be much hope of the talks getting going, he shrugged his shoulders. He did not seem to be at all optimistic.

Yours ever,

Michael

(M.C.S. Weston)

D. J. Makinson, Esq.,
Near Eastern Department,
F.C.O.

cc: A.E. Saunders, Esq., Baghdad.

P4 *[Signature]*

1/7

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162

UNCLASSIFIED

(3/40)



BRITISH EMBASSY

TEHRAN

24 June, 1969.

RECEIVED
REGISTRY NO. 10
30 JUN 1969
NEQ 3/324/1

Mr Agland ³⁰/₆

*Mr Makinon brought
a copy from Tehran
which I have sent
to the General Department
P 3 & 4 are the usual allegations.*

Dear Donald,

Irano/Iraqi Relations

I enclose a copy of a "White Paper" put out by the
Iranians on the Shatt al-Arab dispute. Since this was
distributed to all members of the delegations at the
recent CENCO Ministerial Meeting here, you may already
have a copy.

PMH Humble
27/6

Yours ever,

Michael.

(M.C.S. Weston)

D. J. Makinson, Esq.,
Near Eastern Department,
F.C.O.

cc: (with enclosure)

A.E. Saunders, Esq., Baghdad.
S. J. Egerton, Esq., New York.

Pa PMH
1/7

**FACTS ABOUT
SHATT AL-ARAB
ISSUE**

May 1969

**FACTS ABOUT
SHATT AL-ARAB
ISSUE**

WHERE IS SHATT AL ARAB?

Shatt al-Arab is a border river 120 miles long (47.50 E. long., 31.00 N. lat.) between Iran and Iraq. It is composed for a small part of the confluence of two rivers, Tigris and Euphrates, and for the rest of its course, of three rivers - Tigris, Euphrates and Karun. It flows to the south-east of Iraq and south-west of Iran and empties into the Persian Gulf. Both Tigris and Euphrates rise outside Iraq. Moreover, the Tigris is also fed along its course by a number of rivers flowing from Iran such as the Upper and Lower Zab, Dialeh, and Khabur. Karun is, by far, the largest of the three major tributaries. It rises in and flows from Iran. The Iranian tributaries, together, account for over 60% of the water flowing in Shatt al-Arab.

Iran has two major commercial ports on Shatt al-Arab. These are Abadan and Khorramshahr. The Abadan port is built next to the Abadan Refinery, the largest of its kind anywhere in the world, and is the main outlet for the Refinery's oil products. Khorramshahr is an important commercial port and plays a very significant part in Iran's import and export trade. The recent creation of an Iranian merchant navy has greatly enhanced the significance of both ports to Iran.

Even before the creation of Iran's merchant navy, the bulk of merchant vessels using Shatt al-Arab called at Iranian ports (i.e. Abadan and Khorramshahr).

WHAT IS THE HISTORICAL BACKGROUND?

Border differences between Iran and Iraq have their roots in Iraq's pre-independence days when Iraq was part of the Ottoman Empire, and go back to the early 18th Century. In 1847, a treaty was signed in Erzerum, Turkey, which, through the mediation of Britain and Tzarist Russia, clearly aimed more at safeguarding the Ottoman Empire's interests than ensuring fairness towards Iran. The pressure exerted jointly by the British and Russian Representatives on the Iranian Delegation at the time of signing the Treaty, was considerable. During the next 70 years, Iran expressed her dissatisfaction with these arrangements on several occasions. However, the demarcation protocol signed in Istanbul, Turkey, in 1913 and a series of proces-verbaux signed in 1914 were also open to the same objections, hence their not having been ratified by the Iranian Parliament.

The 1937 Treaty between Iran and Iraq was signed under conditions which undeniably showed that Iraq was independent only

in name. Documents recently published by Britain's Foreign Office indicate that the question of settling border disputes between Iran and Iraq was decided upon not by the Iraqi authorities but, in effect, by the British Government.

According to these documents dated 1936, the British Foreign Office expressed the view that the only way to ensure peaceful borders between Iran and Iraq in Shatt al-Arab was to draw the line at Thalweg (the middle-line of the deepest water-course). Again, according to the same documents, the British Foreign Office believed that it was doubtful whether the Iraqi Government really felt as strongly about the Thalweg frontier as was assumed, adding that there were reasons for thinking that the intransigence which the Iraqis had shown was largely due to the influence of a (British) Colonel Ward who felt very strongly on the point. However, the British Foreign Office's view that the Iran-Iraq border should be established at the Thalweg so that peace could be ensured between the two countries was over-ruled by the British Admiralty which (according to these same documents) contended that by establishing the frontier at the Thalweg, British interests would be jeopardized.

It was therefore no accident that a few months later the Admiralty's views were embodied in the 1937 Treaty. Moreover, the Treaty makes specific reference to the 1930 Treaty between Britain and Iraq which was similarly intended to ensure the safeguarding of British interests.

WHAT ARE THE PROVISIONS OF THE 1937 TREATY ?

It was under such conditions that the 1937 Treaty was concluded. This Treaty consists of six articles and an annexed protocol. Article 1 refers to the Istanbul protocol of 1913 and the proces-verbaux signed in 1914. Article 2 deals with the demarcation line in the Abadan area and again refers to the 1914 proces-verbaux. In Article 3, it is stipulated that the two parties to the Treaty will, upon signing the Treaty, form a commission whose composition and programme will be mutually agreed upon, to install demarcation signs.

Article 4 states :

- (a) Shatt al-Arab will be equally open to merchant ships of all countries, and all fees and dues collected will be used for improving the navigability of the river.
- (b) The Shatt al-Arab will be open to the warships and other non-merchant vessels of both parties.

- (c) The fact that the borderline in the Shatt al-Arab is drawn sometimes at Thalweg and at other times at the tidal water line or the median, will in no way adversely affect the two parties' right to use the Shatt al-Arab all along its course.

In Article 5 provisions are made for concluding an agreement for the maintenance and improvement of shipping, dredging, piloting and dues to be collected, as specified in Article 4.

Article 6 deals with the exchange of the instruments of the Treaty.

The Protocol attached to the Treaty consists of five paragraphs. In paragraph 1 it is stated that the exact geographical co-ordinates of the locations mentioned in Article 2 of the Treaty should be determined by a technical commission consisting of an equal number of representatives from both countries.

Paragraph 2 stipulates that the two parties undertake to conclude the agreement provided for in Article 5 of the Treaty within a period of one year from the effective date of the Treaty. Extension of this one year period can be made only if both parties agree, in which case the Iraqi Government will carry out all its commitments and inform the Iranian Government once in every six months of what has been done, the dues collected, the expenses incurred and any other action taken.

In Paragraph 3, it is stated if one of the parties to the Treaty authorises a warship or non-merchant ship belonging to a third party to enter its ports on Shatt al-Arab, this authorisation will be considered as having been granted by the other party. Nevertheless, the party giving such authorisation should immediately inform the other party accordingly.

Paragraph 4 stipulates that provided the Iranian rights in the Shatt al-Arab are observed, none of the Articles of this Treaty will adversely affect the rights and duties which the Iraqi Government has undertaken towards the British Government in Shatt al-Arab in accordance with Article 4 of the Treaty dated 30 June 1930 and paragraph 7 of its annex of the same date.

Paragraph 5 states that this protocol will be ratified at the same time as the demarcation Treaty, and will constitute an integral part of it, and will be put into effect together with the Treaty. In the event of a dispute arising, the French text of the Treaty will be valid.

WHAT ARE THE BASES OF IRAN'S MAIN OBJECTION TO THE 1937 TREATY?

Iran's main objections to the 1937 Treaty are as follows :

(a) Article 5 of the Treaty which provides for the joint administration of Shatt al-Arab through the conclusion of a separate agreement within a year, as well as paragraph 2 of the Protocol, have been completely ignored by the Iraqi authorities for 32 years.

(b) Provisions of paragraphs 3 and 4 of the annexed Protocol have been violated by the Iraqi authorities on more than one occasion (in 1941 when the Iranian sovereignty was violated by British warships, and in 1951, at the time of the nationalization of Iran's oil industry). These violations of the provisions of the Treaty and its Protocol by the Iraqi authorities, *per se*, have rendered the Treaty null and void. However, the Treaty is also anomalous for the following reasons :

(a) It is contrary to all international practices whereby international waterways are divided according to either the Thalweg or the Median line (*medium filum aquae*) between the countries bordering on such waterways.

(b) It was signed under circumstances which have now radically changed, calling for the establishment of a new order to regularize, on the basis of the principles of international law, the equitable use of this international waterway on which two major Iranian ports are situated.

WHAT HAS BEEN DONE TO SECURE THE RIGHTS OF IRAN?

In view of the aforesaid, in April 1949, when Iran had regained her composure after several years of wartime unsettlement and its aftermaths, and after the Iraqi Government's failure to comply with Iran's earnest requests that an agreement be drawn up for the proper implementation of the provisions of Article 5 of the Treaty, a draft agreement was submitted to the Iraqi authorities by the Iranian Embassy in Baghdad, but the Iraqi Government declined to consider the draft.

Subsequently, a number of visits were paid by the responsible authorities of both countries to each other and the question of implementing the provisions of the Treaty and its Protocol was discussed in the course of these meetings but no progress was made because of the Iraqi authorities' reluctance.

In recent years, a series of visits have been exchanged by high-ranking officials of both countries. In December 1966, Iran's then

Foreign Minister Abbas Aram visited Iraq and in March 1967, President Aref of Iraq paid a visit to Iran.

In June 1968 the then Iraqi Premier Taher Yahya visited Iran and in December of the same year, Deputy Premier Hardan Tekriti came to Tehran.

In February 1969, an Iranian delegation visited Baghdad. During all these visits, the subject of the border differences between Iran and Iraq in general and the question of Shatt al-Arab in particular was discussed. However, the policy followed by successive Iraqi governments at all these meetings has been one of evasion and procrastination. The Iraqi authorities, in spite of their repeated promises to set up special committees to deal with all outstanding issues, have stubbornly refused to consider Iran's legitimate demands for reaching a solution about such issues, including that of Shatt al-Arab.

HOW DID THE PRESENT CRISIS COME ABOUT?

In view of past experiences, the Iranian delegation, headed by Foreign Ministry Under-secretary Abbas Khalatbari, which visited Iraq in February 1969, deemed it advisable to put the Iranian viewpoints in writing in the form of a draft treaty in which it was stated that the Thalweq line should officially constitute the borderline between the two countries in the Shatt al-Arab. As in the past, the Iraqi authorities declined to discuss the matter and the Iranian Delegation returned to Tehran without having achieved any results because of the Iraqi Government's adamancy. However, before it left Iraq, the Iranian Delegation handed a letter to the Head of the Iraqi Delegation informing the Iraqi Government that :

(a) Whereas the 1937 Treaty has been constantly violated by Iraq ever since it was signed;

(b) Whereas the Treaty is contrary to all international practices and the principles of International Law relating to frontier waterways; therefore

(c) The aforesaid facts have rendered the Treaty null and void. Two months passed since the delivery of the letter, during which, while there was no official response from the Iraqi authorities, the Iraqi press carried reports about an impending return-visit by Iraqi officials to Iran to resume the Baghdad talks, and it appeared as if the prospects of reaching a settlement were improving.

However, on April 15, 1969, the Iraqi Foreign Ministry Under-secretary unexpectedly summoned the Iranian Ambassador in

Baghdad to the Foreign Ministry and told him that the ships flying Iranian colours should lower their flags, otherwise all ships bound for Iranian ports would be intercepted. Furthermore, the Iraqi Foreign Ministry Under-secretary told the Iranian Ambassador that members of the Iranian Navy on board such ships, if any, should leave the ships or else they would be forcibly removed by the Iraqi authorities.

This was a flagrant violation of diplomatic behaviour. Public opinion was strongly roused in Iran and the matter was taken up in the Iranian Senate. Senator Ra'is called upon the Foreign Ministry to explain the situation and to inform the Senate what measures had been taken to ensure the safeguarding of Iranian interests in Shatt al-Arab. Deputy Foreign Minister Amir Khosrow Afshar made a statement before the Senate in which he enumerated instances of violation of the main provisions of the 1937 Treaty by Iraq, and declared that because of these violations, the Treaty had been rendered null and void.

Regarding the safeguarding of the interests of Iran and ensuring the safe passage of Iranian vessels in Shatt al-Arab, the Deputy Foreign Minister informed the Senate that the necessary precautionary measures had been taken.

However, in order to show once again that Iran always preferred a negotiated settlement to any other measures, the Foreign Ministry announced that Iran was ready to negotiate with Iraq immediately with a view to reaching a solution satisfactory to both parties.

WHAT HAS IRAQ'S REACTION BEEN TO RECENT DEVELOPMENTS ?

The Iraqi Government took no heed of Iran's offer to negotiate a settlement and instead of taking advantage of Iran's goodwill, embarked upon a series of revengeful actions, including :

(a) Gross mistreatment of Iranian pilgrims and of the Iranian community in Iraq (who number hundreds of thousands). These Iranians are subjected by the Iraqi authorities to a most atrocious and inhuman treatment, such as flogging, confiscation of property, dispossession of money, summary arrests and detentions, forced marches and mass deportations. Eye-witness reports by local and foreign reporters paint such a distressing picture that public opinion both in Iran and abroad has been profoundly aroused and gravely disturbed. The Iranian Human Rights Committee could find no recourse other than to address its pleas to the United

Nations Secretary General, inviting special representatives of the Human Rights Commission to make an on-the-spot investigation.

(b) The unleashing of a barrage of vituperations by the Iraqi propaganda organs against Iran. This vilification campaign is aimed at confusing the issue and misleading public opinion both in Iraq and abroad.

Atrocities and the use of abusive language have by no means been rare in the present Iraqi Government's relatively short span of life, but these have now assumed immense dimensions in relation to Iranian nationals and authorities.

WHAT ARE THE FUTURE PROSPECTS?

Iran's reaction to Iraqi provocations has so far been one of prudent self-restraint and judicious patience. This reaction, understandably, stems from Iran's firm belief in and religious adherence to the principles of peaceful co-existence with all countries, particularly with her neighbours. Moreover, it is aimed at preventing relations with Iraq from further impairment, a situation which the Iraqi Government seems anxious to bring about.

It is the sincere hope and earnest desire of the people and Government of Iran that the Iraqi authorities will see the wisdom of Iran's self-restraint and will refrain from continuing their present course of action which can only intensify the prevailing tension in relations between the two countries which they have so persistently caused to arise.

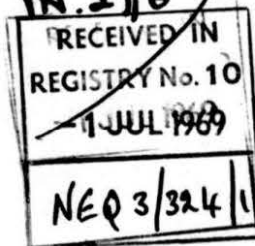
The issue can be settled quite peacefully provided that the Iraqi authorities decide to avail themselves of the Iranian Government's offer to achieve a negotiated settlement based on principles of justice and fairness and in accordance with international practices of sharing international waterways, practices which have helped many other nations in similar positions to arrive at a peaceful solution of their differences.

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1. Letter of *Heinrich* *hse.* *VA. 27/6*
from PS.

2. NE, *del.*



has to answer

For the last two months troops of the Iranian and Iraqi armed forces have faced each other in a state of alert across the border river between the two countries, the Shatt al-Arab. At any moment, according to observers, a conflagration could have ensued and at least one journalist had no doubt that "any artillery battle could scarcely fail to be a massacre for both sides".

The factors behind this new threat to the peace of the Middle East are complex. In order to clarify them, we are publishing a study of the Shatt al-Arab issue in our briefings series next Monday, June 30. We have pleasure in enclosing an advance copy in the hope that it may be of value.

Yours sincerely,

David Missen

David Missen



NEQ 3/324/1

ME/3116/E/1
(A, D)

E. IRANIAN-IRAQI RELATIONS

Iraqi Reports on the Situation in Iran

Baghdad home service in Arabic 15.00 GMT (i) 29.6.69 (ii) 30.6.69

(i) 29.6.69: Text of report:

The agent regime's authorities in Tehran continue their terror measures against Iranian patriots and the free officers in the Iranian Army. An Iraqi News Agency (INA) dispatch from Tehran today says that the Shah's agent authorities in mid-June executed (?Mayadi) Bak, Mohsen Bak and Behjat Bak - chieftains of the (?Jozon) tribes in north-western Iran. The agency adds that Homa Amin Bak, a (?Hormaniyah) tribe chieftain, tortured in prison because of his enmity to the Shah's agent regime, has died. Huge demonstrations were held in Hamadan following his death calling for the downfall of the agent regime.

Another INA dispatch says that Sadeqi, a senior Iranian intelligence member, has furnished information to the Iranian authorities about the activities of the patriotic Iranian officers in Kermanshah and Ahwaz camps accusing them of attempting a coup d'etat. Sadeqi had taken a special intelligence course in Israel. The agency has published the details of the attempted coup d'etat which took place last month, but the Iranian authorities have kept silent and have not published anything about it.

(ii) 30.6.69: Text of report:

The INA reports that 19 Israeli intelligence officers arrived in Tehran on 26th June to operate in the Iranian intelligence department. The agency says four of the officers were assigned as instructors in the Iranian Intelligence College and two others to the foreign liaison office to co-ordinate the Shah's and Israel's intelligence operations.

The agency adds that the remaining Israeli intelligence officers were assigned to the Shah's court because of their experience in preparing security plans to protect the Iranian regime. The national movement to eliminate the Shah's reactionary regime has escalated. The Iranian Government and Israel have signed a military technical co-operation agreement.

Reports indicate that Tehran witnessed an ugly assassination in Shah Abbas Street on 21st June. A group of the Shah's court intelligence officers attacked and shot the girl fighter Aliyeh Fatemi, daughter of the well-known Iranian leader Fatemi. The assassination was undertaken after US Intelligence recommendations that well-known Iranian nationalist leaders be assassinated. This is to hamper Gen. Teymur Bakhtiar's efforts to close the ranks of the Iranian national movement and prepare for the Iranian people's revolution against the present reactionary regime.

Reports in Brief

Teymur Bakhtiar's activities President Ahmad Hasan al-Bakr has received a telegram from Gen. Bakhtiar expressing appreciation for the Revolution Council Command's decision to allow Iranians to live in Iraq (Baghdad in Arabic 19.00 GMT 27.6.69). The Iraqi Government is expected to invite Gen. Teymur Bakhtiar, now in Italy, to live in Iraq (Syrian Arab News Agency in Arabic 12.45 GMT 28.6.69).

Iranian refugees from Iraq So far 17,300 Iranian refugees have arrived in Iran from Iraq through the border crossings at Khosrovi, Dehloran and Mehran and through border areas of Khuzestan. (Tehran in Persian 10.30 GMT 30.6.69)

[Note: The last Appendix on this subject was published in ME/3111.]

Pe 1/11/69

E. IRANIAN-IRAQI RELATIONS

Demonstrations in Iran The Iraqi News Agency reports that an Iranian Navy riverboat has sunk in the Khorramshah area while on patrol duty. Five bodies have been recovered and the remaining occupants have been reported missing. The agency reports that mass demonstrations were staged in Tehran and Azerbaijan this week denouncing the Shah's regime, the agent of Zionism and US imperialism. These demonstrations followed the spread of reports about the sunken boat. The boat had sailed from Yemen carrying the Shah's troops who operated as hirelings for the reactionary monarchy. The agency reported the incident after it picked up a rescue signal from Iraqi naval units. Several Iranian officers participated in the demonstrations. Reports state that 20 officers were arrested, most of whom are from Kermanshah, Tabriz and Tehran. The agency reports further that the agent Shah's authorities in Tehran have planted minefields around the areas inhabited by Arab tribes in Arabistan to stop their activities against the agent regime. A mine exploded in the Tavalesh area on 19th June seriously wounding an Arab peasant. (Baghdad in Arabic 15.00 GMT 25.6.69)

Military transfers in Iran (Text) Reports received from Tehran today say that the Iranian authorities have carried out large-scale transfers of army and air force officers and other ranks. These transfers took place after serious splits among the armed forces following the broadcast of a statement issued last week by the Ulema League in Kermanshah exposing the Shah and his agent Government's policies. The transfers were reportedly carried out to prevent clashes among army units. (Baghdad in Arabic 19.00 GMT 25.6.69)

Baghdad 'Ath-Thawrah' on Iranian activity (Text of quotation from press review) Iran's suspect activities are an inseparable part of the imperialist presence in our region. The Arab reply must therefore be directed not against the Iranian challenge alone but against all imperialist forces in this region. This reply can be made through broader popular action to shake the ground under the imperialists, lackeys and intruders. (Baghdad in Arabic 04.45 GMT 25.6.69)

Typhoid precautions in Khuzestan (Excerpts) The Ministry of Health today announced that it had taken extensive and extraordinary preventative measures in Khuzestan Province and in the Iranian-Iraqi border areas in connection with the outbreak of typhoid fever in the southern parts of Iran... The Health Ministry's report indicates that typhoid fever has now spread to the whole of southern Iraq and is particularly virulent in Basrah, Amarah, Shu'aybah and Nasiriyah. The disease, which spread following the heavy rains and the floods in Khuzestan and in southern Iraq last year, did not cause any harm to the Iranian people as a result of the speedy measures taken by the Ministry of Health such as inoculating 521,204 people in the flood-stricken areas in Iran and other preventative measures... A spokesman of the Ministry of Health today said that as soon as information was received on the spread of typhoid in southern Iraq the Health Ministry instructed the Khuzestan Health Department by telegram to take extensive preventative measures ... despite the fact that the people of Khuzestan had already been inoculated in the course of the last floods.

[Note: The last Appendix on this subject was published in ME/3109.]

ME/3111 517

Copy for NEQ 3/324/1 Action on NEP 3/318/1.
CONFIDENTIAL

PaMMN

8/7

BRITISH EMBASSY,
ANKARA.

3/62

23 June, 1969.

Visit to Turkey of Iranian Prime Minister
1- - 15 June, 1969

The Iranian Prime Minister, Mr. Amir Abbas Hoveyda, paid an official visit to Turkey from 10 to 15 June. He was accompanied by his wife and a delegation of officials, and much play was made of his service as Counsellor at the Iranian Embassy here in the 1950s.

- 2. I enclose a copy of the communiqué. As you will see its main emphasis was on the Middle East, the Iranian/Iraqi dispute, the Persian Gulf and economic affairs.

Political

3. The visit passed uneventfully enough but Mr. Hoveyda caused a mild stir at his farewell press conference in Istanbul on 15 June when he was reported as saying "CENTO has completed its function. CENTO was once necessary, but conditions have changed. The period of pacts is over. Agreements are made in other fields. CENTO remains because a new organization is not set up instead. Economic efforts replace political agreements". He was also reported as saying that Iran did not want another imperialist country to replace Britain when the latter withdrew from the Persian Gulf.

4. On 17 June, I discussed the visit with Alacam, Director General of the Middle East Department in the Foreign Ministry. He said that Turkey had no intention of mediating either between Iran and Iraq (as they had already denied in April - see John Dodds' letter 3/79 of 28 April to John Rich) or between Iran and the United Arab Republic (Cairo Telegram No. 620 of 10 June - not to all - refers). The Turks hoped that both disputes would be solved but believed that it would be impossible for the UAR to make the first move until Iraq and Iran were on better terms. The U.A.R. had not done much to support Iraq over the Shatt-el-Arab dispute but could hardly make overtures to Iran while that dispute lasted.

5. Alacam thought Mr. Hoveyda's remarks about CENTO must have been incorrectly reported and condensed. (This was subsequently confirmed to us by the Iranian Embassy who say that there was a translation problem and that what he actually said was consistent with the view taken by the Iranian Foreign

R.H.G. Edmonds, Esq., CMG, MBE,
Southern European Department,
F.C.O.
London SW1

-1-

CONFIDENTIAL

Minister at the opening session of the recent CENTO Ministerial meeting). Alacam added that CENTO had not in fact been discussed by the Prime Ministers. They had discussed the new regime in Pakistan and thought it would be some time before any change in Pakistan's foreign policy, possibly towards better relations with both the United States and the Soviet Union and rather less close ties with China, would become apparent.

6. Alacam said that Mr. Demirel was unlikely to pay a return visit to Tehran this year. However, the next "RCD" tripartite meeting was due to take place in Ankara, perhaps soon after the Turkish General Election. Not for the first time he went out of his way to say that it was ridiculous for the press to call these occasions "RCD" meetings - they were almost entirely political.

7. I asked about the problem of the Turkish minority in Iran which had caused a fuss last year (see correspondence resting with Dodds' letter 3/63/6 of 19 November 1968 to Rich). Alacam said that such problems were best forgotten - good relations between Turkey and Iran were far too important.

Economic

8. The Commercial Secretary, Barrie White, called on Baydar, Director General of the Economic Relations Department in the Foreign Ministry on 21 June. Baydar said that the economic discussions centred around the proposed pipe-line to carry Iranian oil to the Mediterranean, the expansion of Iran's transit trade through Turkey and the export of regular supplies of mutton to Iran.

9. Following the completion of a draft report, the Turkish Government had announced during the visit their agreement in principle to the construction of an oil pipe-line to carry Iranian oil to Iskenderun, "the only port in the Eastern Mediterranean capable of taking super tankers". The estimated cost of the project was between \$450 million and \$500 million, and as approximately half the pipe-line will be in each country the cost would be divided equally between them. The project was expected to have the full support of the oil companies, and it should not therefore be too difficult to secure the necessary finance from international sources. The pipe-line should amortize itself within ten years. A Working Party of technical experts was being set up, and a team of Turkish oil men was expected to be invited to Iran next month. Once the finance had been secured, it should take only about two years to construct the pipe-line. The study had shown that it would be more economic to send oil from the Gulf by pipe-line to Iskenderun and then by super tanker to Rotterdam than by super tanker via the Cape. The landed cost at Rotterdam would be \$1 a ton less via the pipe-line than via the Cape. (The Director General of the Turkish State Planning Office tells a similar story, but Tehran's letter ECo 12/10 of 14 June 1968 and earlier correspondence with Oil Department are relevant).

10. It was agreed during the discussions that an Iranian team should visit Turkey in the near future to study how to expand Iran's transit trade through Turkey. At present much of her overland trade with Europe was via the Soviet Union, and for various reasons

they would prefer to route it through Turkey. Although the capacity of the Black Sea port of Trabzon was considered adequate to handle this trade, the road between Trabzon and the Iranian border would first need to be brought up to all-weather standard. If Turkey became the main transit route for Iran's trade with Europe it would greatly benefit both Trabzon and Turkish shipping.

11. The Turks and Iranians had agreed to do everything possible to increase trade between their two countries. For some time now Iran had been pressing Turkey to export mutton on a regular basis, but the obstacle was the lack of refrigerated trucks. Now that these trucks were available, Turkey's mutton exports to Iran, which at about \$7 million a year account for virtually all her exports to that country, should increase. The Iranians urged the Turks to do something about importing from Iran (in most years the statistics show a total blank!). The Turks replied that their imports of Iranian oil, once the pipeline was completed, would roughly balance the value of Turkish exports to Iran. No progress was made with Turkey's wish to market pharmaceuticals in Iran; an Iranian request that Turkey should purchase phosphates from Iran was being considered.

Conclusion

12. We have no doubt that the Turkish Foreign Ministry's general favourable view of the visit and of Turco-Iranian relations is a fair one. On the other hand, it is surprising how little these two countries can actually achieve together. In the political field, while their attitudes to the Middle East are not far apart, Turkish caution is paramount. Moreover, the prospects for real progress in economic co-operation are probably much less good than the communiqué, and Baydar's account, suggest. Quite apart from geographical and financial problems, the Turks face conflicting pressures. Only a day or two ago the Iraqi, Libyan and Saudi Arabian Ambassadors treated me to a long joint explanation of the impracticability and irrelevance of the Iran-Turkey pipeline! However, the will to co-operate is there, and it may be that the Turks and the Iranians will start to find the means to make it a reality.

13. I enclose spare copies of this letter for C.R.E. Department, Board of Trade and the ODM.

(J. C. Edmonds)

cc: Chanceries: Tehran
Cairo
Baghdad
Washington
Rawalpindi
HQBFNE

Turkish-Iranian Joint Communiqué

Ankara. Turkish-Iranian Joint Communiqué issued today at the end of official visit of the Iranian Prime Minister Mr. Amir Abbas Hoveyda.

The following is text of the communiqué:

At the invitation of His Excellency Mr. Suleyman Demirel, Prime Minister of Turkey, His Excellency Mr. Amir Abbas Hoveyda, Prime Minister of Iran and Madame Hoveyda paid an official visit to Turkey from 10 June to 15 June, 1969. A Delegation accompanied the Prime Minister on this visit.

During his stay in Ankara, His Excellency the Prime Minister of Iran was received by His Excellency Mr. Cevdet Sunay, President of Turkey, to whom he delivered the message of His Imperial Majesty Shahanshah Aryamehr conveying His Majesty's sentiments of fraternity and amity. His Excellency the President's expressions of sincere brotherhood.

Besides Ankara, the Iranian guests visited also Istanbul and expressed admiration for the impressive achievements of modern Turkey in all fields.

Inspired by the solid bonds of friendship and alliance existing between the two countries the Turkish Government and people accorded to the distinguished Iranian guest and his suite a most warm welcome.

On the occasion of this visit, the two Prime Ministers held talks during which they examined in a most cordial atmosphere various aspects of the international situation as well as the continuously developing relations between the two countries.

With regard to the international situation, the two Prime Ministers reaffirmed the sincere attachment of both countries to the cause of peace and reiterated their determination to continue to work unflinchingly for the elimination of tensions and for the realization of international co-operation.

The two Prime Ministers expressed their concern over the serious situation in the Middle East. They reiterated their firm opposition to the use of force to secure political advantages and territorial gains. Noting that the continued occupation of Arab territories by Israeli forces creates a tense situation fraught with dangers for both regional and world peace, they called for an early solution of the Israeli-Arab conflict in conformity with the security council's resolution of 22 November 1967. They further expressed the hope that the 4 power talks would be successful to that effect.

The Turkish Prime Minister outlined the recent developments in Cyprus, the two Prime Ministers continue to hope that current exploratory talks between the representatives of the two communities on the island will be successful and will open the way to a final solution agreed to by all parties concerned which would fully safeguard their legitimate rights and interests.

His Excellency Mr. Hoveyda gave information about the history of the Irano-Iraqi dispute over the Shatt-Al-Arab and the treatment of Iranians in Iraq adding that many of them had been expelled from that country. The two Prime Ministers expressed the hope that the present tension would ease and that the causes thereof would be resolved in a peaceful and satisfactory manner, in keeping with the

cont'd....

principles and practice of international law, equity and justice.

The Two Prime Ministers reviewed the Persian-Gulf situation. They agreed that peace, progress and stability in the Persian Gulf region could best be promoted through mutual understanding and co-operation between the littoral countries without any outside interference and with due regard to the legitimate interests of all concerned.

On the question of Viet-Nam the two Prime Ministers voiced hopes for the success of the Paris peace talks.

The Prime Ministers of the two countries, while reaffirming the strong faith of their governments in the charter of the United Nations, underlined the importance of this world organization as an instrument for the preservation of peace and for development of international co-operation. They further stressed the need for general and complete disarmament.

The Prime Minister of Turkey praised the Shahanshah Aryamehr for his proposal concerning the formation of the international corps of volunteers for development which has been recommended unanimously by the United Nations for further study.

With regard to bilateral relations, the two Prime Ministers noted the satisfactory results of the close and growing co-operation between the two countries in all fields.

They made a thorough review of the economic and commercial relations existing between their two countries.

The two Prime Ministers noted with satisfaction the progress made within the framework of the regional co-operation for development. They re-emphasized the need for an even closer co-operation between the members of RCD so that the ultimate goal of providing a higher and more satisfactory standard of living to their nations may be attained as early as possible.

The two Prime Ministers discussed the possibilities of the construction of the pipe-line to bring Iranian oil to the Mediterranean shores in Turkey. They were of the opinion that the project may offer new opportunities for useful and profitable co-operation. It was decided to set up a working group of the two parties to pursue the discussions and to further the studies on the project.

During the consideration of trade relations between the two countries the prime Ministers, recognizing that here exists a great potential in the field, called for greater effort in exploring the possibilities of expanding the volume of commercial exchanges within the framework of RCD.

The question of the utilization of Trabzon as a transit centre for Iranian commerce was also raised. The two Prime Ministers noted that some progress had already been realized in this field and urged

cont'd....

that rapid and suitable arrangements be made to meet the requirements of both countries.

The Prime Minister of Iran thanked the Prime Minister of Turkey for the warm reception and hospitality extended to him, Madame Hoyveda and members of his party during the visit.

The Prime Minister of Iran extended an invitation to the Prime Minister of Turkey to pay an official visit to Iran. This invitation was accepted with pleasure. The date of the visit will be decided later.

(164)

I have told Mr. Hartles
that the last § wd.
have better been
omitted.

Mr. MANING
Mr. ACUM
June 2/7

30 June, 1969.

A P.R. venture on behalf of the
Iranians is attached. Chapter VI goes
into British involvement in some detail and
will be of interest to Mr Paul.

F.M. Hamble
2/7

I am writing on behalf of the
Foreign and Commonwealth Secretary
to thank you for your letter with
which you enclosed an advance copy
of the study of the Shatt al-Arab
issue.

Mr. Stewart is very pleased to
have this book and looks forward to
reading it.

Mr Paul you may
be interested in this
F.M. Hamble

(Mrs. V. E. M. Hartles)
Private Secretary

David Missen, Esq.,
Transorient Books, Ltd.,
Clifford House.

Shatt al-Arab

The Facts behind the Issue

Ramesh Sanghvi

Transorient

Shatt al-Arab

The Facts behind the Issue

Ramesh Sanghvi
Member of the Inner Temple
Barrister at Law

Transorient

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I

THE shadow of a new military and political crisis in the Middle East has fallen upon the river boundary between Iran and Iraq. The crisis concerns the rights of these countries over the river, which is situated at the western end of the Persian Gulf and has been known in recent times as the Shatt al-Arab. The situation as it exists now is fraught with dangerous consequences. This was underlined both by *The Times* in an editorial on 21st April, 1969, under the heading "Storm in the Gulf" and, pointedly, by a correspondent of *The Tehran Journal* who, on 4th June, had just returned from a visit to the area which had included a trip down river in an Iranian patrol boat: "At least no war was going to start over our little excursion, though the trip left little doubt one could start any time."

This crisis is a creation of the military junta now in power at Baghdad. Its nature was epitomised by the Bombay newspaper *Blitz* on 1st June in a special report by its Arab expert and editor: "Iraq has created a major diversion from the (United) Arab front by organising a warlike confrontation with Iran."

The "warlike confrontation" organised by the Iraqi rulers stands out in a strange contrast to the process of growing understanding between Iran and her neighbours in general, and the Persian Gulf Arab states in particular. His Imperial Majesty the Shah of Iran has, in recent years, done all that could be done to build a bridge of understanding with these neighbours. Thus

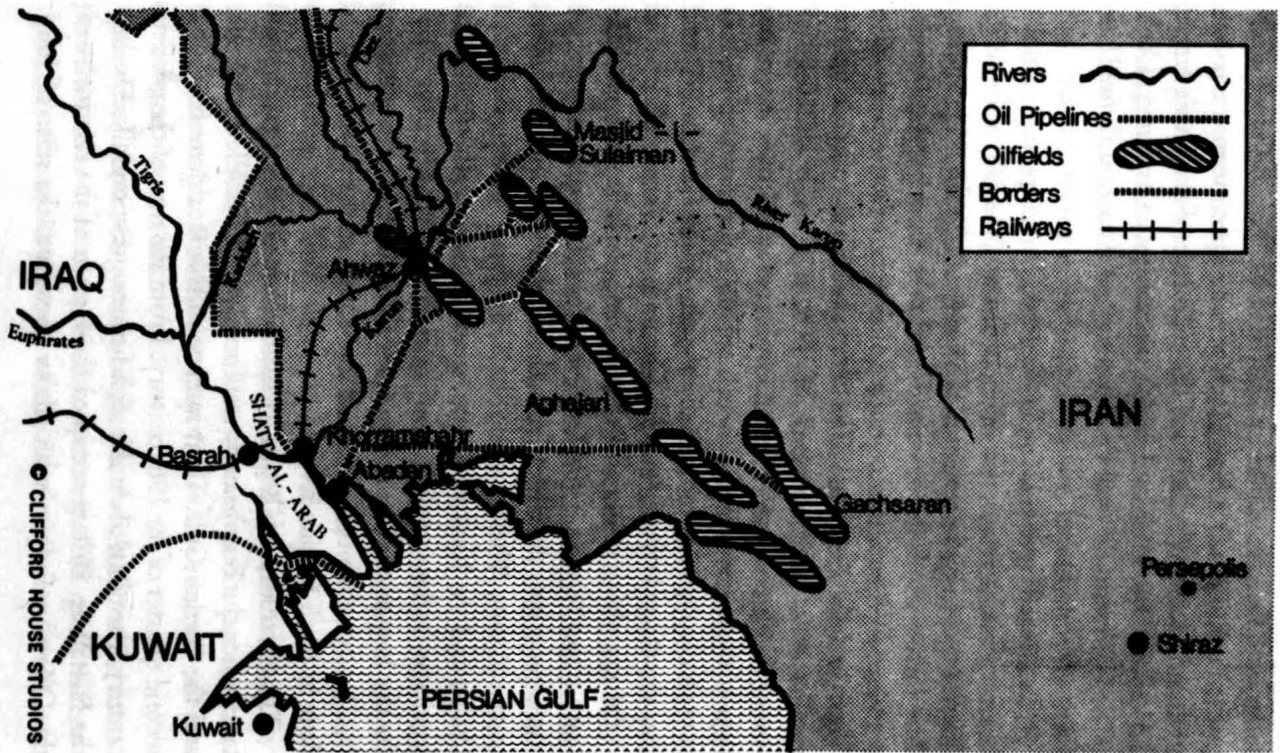
the Shah was the first Head of State to declare categorically that the days of territorial aggrandisement by force were over, and that Israel must evacuate all Arab territories occupied in the June War of 1967. The Shah in fact made this declaration at a Turkish airport en route to Tehran even before the Seven Day War was over.

It has often been said, without justification, that Iran has not met the Arabs halfway over the question of Bahrein. The truth is that even on this delicate issue of Iranian sovereignty, the Shah has taken the most reasonable and equitable stand. At a Press Conference at Delhi in January this year, he solemnly denounced the use of force to assert what Iran considers its historical right to Bahrein, and expressed readiness to abide by the verdict of the Bahreinis themselves, given under an internationally supervised referendum.

The Shah's enlightened foreign policy has paved the way to a new understanding between Iran and the Gulf states, including Saudi Arabia and Kuwait. Hardly a week passes without some friendly official exchange between these states and Iran. The success of this foreign policy was one of the points stressed by *The Times* editorial of 21st April. In the context of the Iraqi quarrel, *The Times* said: "this quarrel stands in contrast to the successful efforts Iran has been making with other neighbours like Saudi Arabia," and concluded with the advice: "that is the model the Iraqi government should heed."

II

Two thousand years ago, when Iran and Mesopotamia were united under one harmonious rule, the Shatt al-Arab was called Arvand Rud—The Great River. The border river is some 120



miles long from its source at 47°5' East 31° North to its mouth in the Persian Gulf. Arvand Rud was an appropriate name for such a waterway, which was the mainstay of the area's fertile agricultural economy and which was to remain a principal link in East-West trade until the discovery of a sea route round the Cape of Good Hope.

The Great River has, for 5,000 years, been especially rich in historical associations. Its main tributary, the 500 mile long Karun, rises in Iran northwest of Shiraz, not far from Persepolis. The Karun winds its way north and west through the Iranian province of Khuzistan to join a confluence of two rivers—the Tigris and the Euphrates. The Shatt al-Arab is composed for a small part of the confluence of these two rivers and for the rest of the three rivers—Tigris, Euphrates and Karun. It was on two of those rivers that Nineveh and Babylon once stood. It is at their confluence, traditionally the site of the Garden of Eden, that the Great River begins its descent to the Persian Gulf.

Of the three rivers, the Karun originates in Iran. While neither the Tigris nor the Euphrates rises in Iraq, nearly thirty rivers pour into the Tigris from the Iranian plateau, in addition to the Karun. These include the Upper and Lower Zab, the Dialeh and the Karkeh. Karun, made famous to the European world by various trading companies in the 19th century, is by far the largest of the three major tributaries to the waterway. In all, more than two-thirds of the waters of the Shatt al-Arab flow in from Iranian rivers.

The Shatt al-Arab began to assume a major strategic importance once the European powers entered the Middle East scene and the Persian Gulf. Their interest in this area dates from the second quarter of the 19th century. From the turn of the present century, the Shatt al-Arab's significance grew rapidly. During the First War, Britain occupied those parts of the territories of the Ottoman Empire which now constitute the state of Iraq.

With Basrah under their control, the British used it as a strategic port to maintain supply lines for the Mesopotamian campaign. A little earlier, the Abadan Refinery, later to become the largest in the world with a capacity of 400,000 barrels of crude oil daily, had been opened in 1913. The construction of this refinery was a consequence of the discovery of oil at Masjid-i-Sulaiman, in the Khuzistan province of Iran, in 1908. During the First War, Abadan became probably the most strategic port in the Persian Gulf for Britain, since the British navy secured all its oil from Iran.

The importance of Abadan to the Iranian economy continued to increase during the interwar years. During the Second War, this major Iranian oil port made an even greater and more vital contribution to Allied victories. In the meanwhile, Khorramshahr developed as a major commercial port. Its commercial and strategic value for Iran increased after it became the southern terminal of the Trans-Iranian Railway. Khorramshahr also played a vital role during the Second War by becoming the point at which the Allied supply lines across Iran to the U.S.S.R. began. Finally, with the creation of an Iranian merchant navy, the significance of both ports to Iran has been greatly enhanced.

Thus, leaving aside historical associations and despite its present name, the Shatt al-Arab is in many respects more Iranian than Iraqi in character. The majority of the merchant vessels using the Shatt al-Arab have always called at the Iranian ports. Abadan as an oil port, and Khorramshahr with a throughput of nearly two million tons of goods per annum, vastly outweigh Basrah in importance as centres of international commerce.

As stated above, the waters of the Shatt al-Arab for the most part find their sources in Iranian territory. The giant Karun alone contributes 40 per cent of the river's volume. In all, it is

estimated that some 67 per cent of the waters of the Shatt al-Arab rise in Iran. The Shah, therefore, justifiably emphasised this point in a recent interview with the Kuwaiti newspaper *Ar-Rai al 'Am*: "Is it not true that all these waters pour into the Shatt? So, how can anyone say that this river belongs to one side only?" And yet this is what the junta at present ruling in Baghdad now claims.

III

Border differences between Iran and Iraq go back to the period when there was no Iraq and the territory now called Iraq was part of the Ottoman Empire. In the 16th and 17th centuries, the Persian and Ottoman Empires extended over most of Southwest Asia. The conflict between the two really began once Shah Ismael (1499-1524) founded the Safavi dynasty and made Shiism the national religion. Between 1602 and 1627, Shah Abbas the Great conducted several successful campaigns against the Ottomans, and occupied the provinces of Baghdad, Kirkuk and Mosul. The wars ended a few years later and in 1639 the Treaty of Zuhab was signed.

The question of boundaries was never precisely resolved. During the whole period when the Ottoman Empire was Iran's neighbour, no mention was made of the question of sovereignty and the demarcation of the Iran-Ottoman frontier in the Shatt al-Arab. Even in subsequent Treaties, collectively known as the Treaty of Erzerum, no different approach appears to have been made. The government of Iran, as a result, has taken the position that on the basis of the available documents of the period it can be said that the Iranian and Ottoman governments agreed on the exercise of a joint

sovereignty over the Shatt al-Arab, up to the point where both shores of the river came within the Ottoman territory. (Appendix B comprises the full text of the Iranian Deputy Foreign Minister's analysis of this situation.) The Treaty designated entire regions lying between the Ottoman and Persian states as frontiers, without any further degree of precision.

It is important to note that the Erzerum Treaty was a product of a period during which the two principal European powers had directly intervened in the affairs both of the Ottoman and the Persian Empires. European intervention during the 19th century came about as a result of the series of capitulations which were converted into "a natural vehicle for the manifestation of European imperialism within the Ottoman Empire". (Maurice Harari, *Government and Politics of the Middle East*, page 17). Czarist Russia had long threatened to intervene in the Ottoman Empire, wearing the cloak of champion of the Sultan's Christian subjects. England and France were alarmed at this situation. It was against this background and in accordance with the so-called "Balance of Power" that the Porte was kept neutral and thus supported by all the European powers.

As far as Iran was concerned, this was a period of alternate Anglo-Russian domination. Without going into the details of this period of European dominance over Asia, it is fair to say that the ascendancy of the European powers, both in Iran and at Istanbul, was extensively reflected in all the Treaties of the time. The Treaty of Erzerum was no exception. It was made in the interests of the European powers and, since both Britain and Russia, for a period, wanted to give a new lease of life to "The Sick Man of Europe", they jointly exercised considerable pressure on the Iranian delegation to give in on many points of national importance to Iran. For the next 70 years, the Treaty

of Erzerum was a subject of dissatisfaction and protest for Iran. However, there was little that could be done during this period and Iran was compelled to sign a demarcation protocol in Istanbul in 1913 as well as a series of *procès-verbaux* in 1914. Though the government of the day in Tehran toed the line drawn by London and St. Petersburg, the people and their elected representatives did not. The Iranian Parliament, which had come into existence in 1906, never ratified either the demarcation protocol of 1913 or the *procès verbaux* of the following year.

IV

The Ottoman Empire disintegrated during the First War. Within days of the outbreak of Anglo-Turkish hostilities, on 5th November, 1914, Anglo-Indian forces landed at the mouth of the Shatt al-Arab. Control of Basrah, the southern *vilayet* of the Ottoman Empire, was rapidly secured. Baghdad was taken in March, 1917, and Mosul in November, 1918. Two conflicting series of secret negotiations affecting the destiny of Iraq ensued—the deal between Sharif Hussein of Mecca and Sir Henry MacMahon; and the Sykes-Picot Treaty. By the end of the war, Britain was in complete control of the territories now called Iraq. Sir Percy Cox created a provisional government comprised of himself as British High Commissioner for Mesopotamia and a Council of Arab Ministers supervised by British advisors. Britain excluded foreign affairs and defence from the jurisdiction of this government. In March, 1921, Winston Churchill, then Colonial Secretary, called a conference in Cairo attended by the principal British military and political advisors concerned with Iraq. It was at this conference

that Britain decided to create a Kingdom of Iraq and to install Faisal, second son of Sharif Hussein, as King. He was duly proclaimed on 11th July, 1921, and the protectorate system was thus introduced in the Middle East. Meanwhile, Britain brought Iraq within the mandate system, provided for by the 22nd Article of the Covenant of the League of Nations and the mandate, of course, was given to Britain. This state of dual political tutelage continued until Iraq's admission to the League in October, 1932. In fact, Britain continued to control the political life of Iraq for a much longer period.

Iran had raised the question of sovereignty over the Shatt al-Arab from the time that Reza Shah the Great took the destiny of his nation into his hands and commenced his enterprise to make Iran a truly independent country. Under the circumstances, it was a matter which Iran had to take up with the British as well as the Iraqi government. The Iranian demand was that the boundary between Iran and Iraq at the Shatt al-Arab should be drawn on the basis of the accepted principles of international law.

V

Iran asked that the boundary on the Shatt al-Arab should be drawn in accordance with the Thalweg Principle—that is, the boundary must run through the mid-channel of the river. The Thalweg Principle had been adopted as a general rule under the Peace Treaties of 1919.

The Thalweg Principle is an integral part both of the body of law and the practice of international law. Boundary rivers, according to international law, are such rivers as separate two different states from each other. If such rivers are not navigable,

the boundary line as a rule runs down the middle of the river—the Median Line, *medium filum aquae*—following all the turnings of its course and remaining equidistant from both banks. If navigable, the boundary line runs instead through the centre of the navigable channel, the thalweg. If the river should change its course, the boundary line alters concomitantly. When a bridge is built over a boundary river, the demarcation line runs through the middle of the bridge. Sometimes a boundary river changes its course completely away from the frontier, or dries up. If it was a navigable boundary river, the boundary line continues to run along the middle of the old thalweg in the abandoned bed.

Thus, the demand of Iran was based entirely on the accepted principles and practice of international law. The Shatt al-Arab was, and is, a navigable river. Therefore, the boundary between the states of Iran and Iraq must be determined according to the Thalweg Principle—at the middle channel of the river. This was the case which the government of Iran put forward to the protectors, and the de facto rulers, of Iraq in London.

VI

In 1936, this matter became a subject of impassioned discussions in London between the Foreign Office, then presided over by Anthony Eden, and the Admiralty. A significant role was played in these discussions by the British Administrator of the Port of Basrah, Colonel Ward. The documents of this period have recently become available at the Public Record Office in London.

It appears from these documents that Iraq was willing to accept the Thalweg Principle in the whole of the Shatt al-Arab.

Britain on the other hand was anxious to see a Treaty concluded, however anomalous, on the question of the boundary so as to protect her own interests. The fear that Iraq and Iran might proceed to compose their differences without any regard for British interests dominated British thinking at this time, and is clearly expressed in a letter from the Foreign Office to the Admiralty dated 10th December, 1936. "We may, in fact, easily find ourselves in a position where the Iraqis are prepared to meet the Persian desire for a thalweg frontier, and where both parties will be able legitimately to represent that we alone are standing in the way of a settlement." (FO 371/20039, sheet 235.)

The same fear was expressed in a Foreign Office Minute of 16th December, 1936, which stated *inter alia*: "We were beginning to be regarded as the obstacles to a settlement not only by Persia but also by Iraq and it was possible . . . that they would come to an arrangement between themselves which would take no account of the interest of His Majesty's Government." (FO 371/20040, sheet 257.)

The Foreign Office documents make fascinating reading. *In primis* they reveal that, whatever the public statements of the then Foreign Secretary and the British Ambassadors in Tehran and Baghdad, Britain privately acknowledged the justice of Iran's case. A draft policy memorandum dated 21st December declares: "Whatever may be the legal and historical basis of the existing frontier, it is unquestionably abnormal, and only defensible on the ground that Persia has other outlets to the sea and Iraq has none." (FO 371/20040, sheet 275.) Why then did the British not accede to Iran's case, particularly since, as the same memorandum points out, "it must be remembered that in the event of hostilities involving the Shatt al-Arab it is likely to be at least as important for His Majesty's Government to obtain oil from Persia as to send warships to Basrah . . . the

whole question should be settled in a manner which will enable His Majesty's Government and Iraq to rely on Persian friendship in the unsettled period which may lie ahead. This is a matter of pure self-interest for His Majesty's Government." (FO 371/20040, sheet 274.)

Unfortunately, these relatively balanced views had not been characteristic of Britain's attitude during the earlier phases of the negotiations, in which three distinct, and sometimes dissident, British voices had been heard. The first was that of Colonel Ward, whom the Foreign Office documents describe as "no longer young". As Administrator of the Port of Basrah, no one was better placed than Colonel Ward to appreciate the fact that 90 per cent of the shipping in the Shatt al-Arab was British—and that, it seems, was exactly how he intended to keep it. To this end, he exerted every ounce of his not inconsiderable influence with the Iraqis not to consider accepting the Thalweg Principle. The Foreign Office Minute of 16th December admits that "it was doubtful whether the Iraqi government really felt as strongly about the thalweg frontier as was assumed. There were reasons for thinking that the intransigence which they had shown hitherto was largely due to the influence of Colonel Ward." (FO 371/20040, sheet 262.)

The second voice was that of the Admiralty, who emphatically opposed any suggestion of accepting the Thalweg Principle on the grounds that it was essential for British warships to have free access to Basrah without passing at any point through Iranian waters. The Admiralty's case seems to have rested not so much on any fears of latent Iranian hostility as on the fear that Iran would declare her neutrality (as indeed she subsequently did) in any forthcoming hostilities, and would, therefore, be bound in international law to oppose the passage of British warships to Basrah if the Thalweg Principle were applied. As far as the Admiralty was concerned, the then status

quo was ideal and the only concession to Iran which it would willingly see made would be the offer of sovereignty over an anchorage at Abadan—though even this was not to extend as far out into the river as the Thalweg Principle would require.

The third voice was that of the Foreign Office itself which had, as early as 1930, propounded an ingeniously implausible scheme—the establishment of a Shatt al-Arab Conservancy Board to administer dredging, revetting of banks, lighting, buoying, pilotage and the control of shipping, quarantine, sanitary measures and the collection of dues. For Iran there were two major drawbacks. The Board was to control the waters of the Karun as well as those of the Shatt al-Arab: and the Board was to be Tripartite, with Britain as the third full member. For the Iranians to accept such a scheme would have been for them to take one step forward and two steps back—to achieve recognition of their legitimate rights in the Shatt al-Arab at the extraordinary expense of surrendering sovereignty over the Karun—and surrendering it, moreover, not just to neighbouring Iraq but to a non-riparian European power. The Foreign Office evidently hoped that Iran might be induced to agree to such an arrangement, provided that the Thalweg Principle were applied to the whole of the Shatt al-Arab or even, and preferably, if it were applied solely to the Abadan anchorage.

When it became clear that the Iranians would simply not accept such a scheme, the Foreign Office continued to adhere to the Thalweg Principle—though still not so much on the grounds of equity as that it would provide a good bargaining counter to secure Iranian agreement to the free passage of British warships to Basrah. "One of our main reasons for taking this line," the Foreign Office explains in a letter to the Admiralty, dated 10th December, "has been our feeling that it would be quite reasonable, if Persia were to acquire a thalweg frontier in any

part of the Shatt, for Iraq to insist on obtaining, in return, a Treaty undertaking by Persia to allow the free passage of ships of war of all nations—thus including those of Iraq and her allies—through any Persian water even in time of war when Persia was neutral (F.O. underlining). Our view here is that such an undertaking would not be prejudiced by the normal rules of international law in cases where no such Treaty obligation exists.” (F.O. 371/20039, sheet 234.)

The British position in 1936 may be summarised easily from these documents. The Foreign Office firmly held to the view that a peaceful border between Iran and Iraq in the Shatt al-Arab could be established only by the adoption of some sort of Thalweg Principle. There appeared to the Foreign Office to be no reason why Iraq should not accept this principle. On the other hand, the Admiralty, supported by Colonel Ward, was opposed to the application of these principles, since it thought that British interests would be jeopardised should the Thalweg Principle determine and demarcate the boundary.

In the event, the Admiralty won the day, and its views were incorporated in the Treaty concluded in 1937 between Iran and Iraq.

VII

The 1937 Treaty consists of six Articles and an annexed Protocol. Article I refers to the Istanbul Protocol of 1913, and the *procès-verbaux* signed in 1914. Article II deals with the demarcation line in the Abadan area and again refers to the 1914 *procès-verbaux*. In Article III, it is stipulated that the two parties to the Treaty will, upon signing the Treaty, form a commission whose composition and programme will be mutually agreed

upon, to install demarcation signs. Article IV states that the Shatt al-Arab will be equally open to merchant ships of all countries, and all fees and dues collected will be used for improving the navigability of the river; that the Shatt al-Arab will be open to the warships and other non-merchant vessels of both parties; and that the fact that the borderline in the Shatt al-Arab is drawn sometimes at thalweg and at other times at the tidal water line or the median, will in no way adversely affect the two parties' right to use the Shatt al-Arab all along its course. In Article V provisions are made for concluding an agreement for the maintenance and improvement of shipping, dredging, pilotage and the collection of dues as specified in Article IV. Article VI deals with the exchange of the instruments of the Treaty.

The Protocol attached to the Treaty consists of five Paragraphs. In Paragraph I it is stated that the exact geographical co-ordinates of the locations mentioned in Article II of the Treaty should be determined by a technical commission consisting of an equal number of representatives from both countries. Paragraph II stipulates that the two parties undertake to conclude the agreement provided for in Article V of the Treaty within a period of one year from the effective date of the Treaty. Extension of this one year period can be made only if both parties agree, in which case the Iraqi government will carry out all its commitments and inform the Iranian government once in every six months of what has been done, the dues collected, the expenses incurred and any other action taken. In Paragraph III, it is stated that if one of the parties to the Treaty authorises a warship or non-merchant ship belonging to a third party to enter its ports on the Shatt al-Arab, this authorisation will be considered as having been granted by the other party. Nevertheless, the party giving such authorisation should immediately inform the other party accordingly. Paragraph IV stipulates that, provided Iranian rights in the Shatt al-Arab are

observed, none of the Articles of this Treaty will adversely affect the rights and duties which the Iraqi government had undertaken towards the British Government in the Shatt al-Arab in accordance with Article IV of the Treaty dated 30th June, 1930, and Paragraph VII of its Annexe of the same date. Paragraph V states that this Protocol will be ratified at the same time as the demarcation Treaty, and will constitute an integral part of it, and will be put into effect together with the Treaty. In the event of a dispute arising, the French text of the Treaty will be valid. (Appendix A).

VIII

The Treaty of 1937 has been an anachronism ever since it was concocted. It has never been really honoured by Iraq. Time and again Iran has pointed this out to the rapid succession of governments at Baghdad, but all her protests have been ignored.

In the initial period, Iran brought to the notice of the Baghdad authorities that Article V of the Treaty provided for the joint administration of the Shatt al-Arab through the conclusion of a separate agreement. Iran pointed out that Paragraph II of the Protocol enjoined the parties to conclude a Convention in accordance with the content of Article V in the course of one year from the date the Treaty came into force. It has been 32 years since the Treaty was signed. During all this time, the various governments in Iraq have ignored this basic provision, and have monopolised the administration of the Shatt al-Arab.

On various occasions Iran has pointed out that, in accordance with Paragraphs III and IV of the Protocol to the Treaty, no warships of any other government were to be allowed to pass through the border river without the permission of either party

to the Treaty and the immediate notification of the other party. These provisions were repeatedly violated by the Iraqi authorities. In 1941 they permitted the stationing of the British Navy in the Shatt al-Arab when Britain invaded Iran. Again, in 1951, at the time of the crisis over the nationalisation of the Anglo-Iranian Oil Company, Iraq, in flagrant violation of the provisions of the Treaty, permitted the British warship *Mauritius* to enter the Shatt al-Arab. The authorities in Iraq were well aware that this warship had been brought to threaten Iran into surrender on the nationalisation issue. This was a critical situation for Iran. Instead of helping her neighbour, Iraq played a role which can only be termed as inimicable.

This unfriendly attitude at a time of crisis may never be forgotten by the people of Iran. The Shah himself has described what happened in his autobiography: "At about this time, Britain announced that she was ordering paratroops to Cyprus and it was rumoured that they were for possible use in Iran. The British cruiser *Mauritius* already lay at anchorage at Abadan and there were rumours of further naval movements in our direction in the Persian Gulf. I took occasion to tell the British Ambassador that if his government tried any violation of our sovereignty, I personally would lead our forces to resist the aggressors." (H.I.M. Mohammad Reza Shah Pahlavi, *Mission For My Country*, page 91.)

As early as April, 1949, when Iran had regained her stability after the Anglo-Soviet invasion during the war, and the subsequent Soviet occupation of her northern territories, she requested Iraq that an agreement be drawn up for the proper implementation of the provisions of Article V of the Treaty. A draft agreement was drawn up in Tehran and submitted to the Iraqi authorities through the Iranian Embassy at Baghdad. The government of Iraq flatly refused to consider this draft. Nothing daunted, during the succeeding years, Iran kept in

constant touch with Iraq in the hope of settling the implementation of the Treaty and its Protocol. Iraq, however, refused to consider any of these overtures from Iran.

In 1959, the Iraqi dictator Kassem, instead of recognising the validity of the Iranian protests, denounced the Treaty of 1937 and claimed Iraqi sovereignty over the entire Shatt al-Arab. Indeed, he went even further, and made vague claims to territory in Khuzistan on the Iranian bank of the waterway. Iran brushed aside this declaration with contempt. "It was pointed out that navigation on the Shatt was still controlled entirely by, and dues paid to, the Basrah Port Authority in spite of a provision in the 1937 agreement for setting up a joint Iranian-Iraqi Board of Control." (John Marlowe, *The Persian Gulf in the 20th Century*, page 205). Iran pointed out that a considerable part of the navigation dues (now estimated at about £4.5m a year) collected by the Port Authority was being misappropriated by the Iraqi government, a point reiterated in the Iranian Deputy Foreign Minister's statement (see Appendix B). Instead of answering this charge, the Iraqi government began maltreating Iranian pilgrims visiting the holy Shiah cities of Najaf and Karbala. This persecution was extended to Iranian nationals in Iraq, and the situation deteriorated to such an extent that diplomatic relations between the countries were suspended.

Despite the bitter experience of earlier years, Iran continued to seek a friendly solution with Iraq on the question of implementation of the Treaty. In recent years a number of such efforts have been made through a series of visits by high ranking officials of both countries. In 1966, Iran's then Foreign Minister, Abbas Aram, visited Iraq and, in March, 1967, President Aref of Iraq paid a visit to Iran. In June, 1968, the then Iraqi Premier, Taher Yahya, visited Tehran and a few months later, in December of the same year, so too did Deputy Premier Hardan Tekriti.

In February, 1969, an Iranian delegation visited Baghdad. During this visit, as during earlier exchanges, the subject of border differences between Iran and Iraq in general and the question of the Shatt al-Arab in particular were discussed. However, nothing of substance emerged from these discussions because, for reasons known best to themselves, the Iraqi authorities continued to pursue a policy of evasion and procrastination. In spite of their repeated promises to set up special committees to deal with all outstanding issues, the Iraqis have stubbornly refused to consider Iran's requests for reaching a solution on these issues, including that of the Shatt al-Arab.

IX

In view of past experiences and during its visit to Iraq this February, the Iranian delegation, headed by Abbas Khalatbari, Under-Secretary for Foreign Affairs, deemed it advisable to put the Iranian point of view in writing in the form of a draft treaty. The main point of this draft treaty concerned Iranian insistence that the recognised principles of international law pertaining to a boundary river—i.e., the Thalweg Principle—should be adopted in drawing the border line in the Shatt al-Arab between the two countries. This draft treaty was submitted to the government of Iraq as the most reasonable and equitable solution of the issue. The Baghdad authorities, however, declined to discuss the matter and the Iranian delegation, despite the best will in the world, returned to Tehran entirely empty-handed.

Before the delegation left Iraq it handed over a letter to the head of the Iraqi delegation, informing the Iraqi government that whereas the 1937 Treaty had been constantly violated by

Iraq ever since it was signed; and whereas the Treaty was contrary to all international practices and the principles of international law relating to frontier waterways; therefore the aforesaid facts had rendered the Treaty null and void.

Two months later, on 15th April, 1969, the Iraqi Under-Secretary for Foreign Affairs unexpectedly summoned the Iranian Ambassador in Baghdad to the Foreign Ministry and told him that ships flying Iranian colours in the Shatt al-Arab should henceforth lower their flags. If not, all ships bound for Iranian ports would be intercepted. At the same time, the Iraqi Under-Secretary informed the Iranian Ambassador that no Iranian Navy personnel on board such ships would in future be allowed passage in the Shatt al-Arab. Any such personnel should leave the ships or else they would be forcibly removed by the Iraqi authorities.

This was a flagrant violation of diplomatic behaviour. Public opinion was strongly roused in Iran and the matter was taken up in the Iranian Senate. Senator Ra'is called upon the Foreign Ministry to explain the situation and to inform the Senate what measures had been taken to ensure the safeguarding of Iranian interests in the Shatt al-Arab. Deputy Foreign Minister Amir Khosrow Afshar made a statement before the Senate in which he enumerated the instances of violation of the 1937 Treaty by Iraq and declared that, because of these violations, the Treaty had been rendered null and void.

With regard to the safeguarding of the interests of Iran, and ensuring the safe passage of Iranian vessels in the Shatt al-Arab, the Deputy Foreign Minister informed the Senate that the necessary precautionary measures had been taken. (Appendix B)

However, in order to show once again that Iran always preferred a negotiated settlement to any other measures, the Foreign Ministry announced that Iran was ready to negotiate with Iraq immediately, with a view to reaching a solution

satisfactory to both parties. The Iraqi authorities choose to ignore this offer by Iran for the immediate resumption of talks; however, some two months later, there was some evidence of a change of heart by Iraq.

X

Iran abrogated the 1937 Treaty not only because of the Iraqi violations of its main provisions but also for two additional reasons. Firstly, the 1937 Treaty was contrary to all principles and practice of international law, whereby international waterways are divided according to the Thalweg Principle, Secondly, Iran evoked the doctrine of *rebus sic stantibus*.

It is a recognised principle of international law that vital changes of circumstances may be of such a kind as to justify a party to a Treaty in demanding to be released from its obligations. It is indeed further held that all Treaties are concluded under the tacit condition *rebus sic stantibus*. This doctrine embodies a principle of law similar to those expressed in the doctrines of frustration, supervening impossibility of performance, or the like. By the doctrine of *rebus sic stantibus*, every Treaty implicitly embodies the condition that if, by any unforeseeable change of circumstances, any obligation provided for in the Treaty should impair the existence or vital interests of one of the parties, the party concerned should have a right to demand to be released from any such obligation. "Thus conceived, the doctrine *rebus sic stantibus* when treated as a legal doctrine, embodies the same principle that the law of various countries has admitted as a ground for dissolution or discharge or unenforceability of a contract owing to a vital change of circumstances." (Oppenheim, *International Law*, Vol. I, page 940.)

XI

As already noted, two months elapsed between the delivery of Iran's February note and the bizarre Iraqi reaction of 15th April. It was not until even later that Iraq attempted a lame reply to Iran's reasoned arguments. Even then, the Iraqi authorities ignored Iran's invocation of the Thalweg Principle, and made no attempt to defend or excuse the Iraqi violations of Article IV of the 1937 Treaty and Paragraph III of its Protocol. Instead, Iraq attacked Iran's contention that Article V of the Treaty and Paragraph II of its Protocol had stipulated the drawing up of a Convention for "joint administration" of the Shatt al-Arab, and peevishly pointed out that these words form no part of the text. This is quite true, but the Iraqi argument amounts to no more than a quibble. The wording of the Protocol (see Appendix A) is in fact far more precise, and specifically refers to the proposed joint commission settling measures for the "maintenance and improvement of the navigable channel, pilotage, dues to be levied, sanitary measures, measures to be taken for the prevention of smuggling, and all other matters relating to the navigation in the Shatt al-Arab." This, incidentally, echoes almost to the word the text of the old British proposal for a Tripartite Conservancy Board. (FO 371/20040, sheet 282.)

One pro-Iraqi voice also attacked Iran's invocation of the doctrine of *rebus sic stantibus*, declaring it invalid on the grounds that there was no recorded instance of both parties to a Treaty agreeing to the doctrine's application. In the first place, this is untrue. A Resolution of the Council of the League of Nations on 5th October, 1934, held that Yugoslavia was entitled to invoke changed conditions with regard to the interpretation of a concessionary contract with the Barcs-Pakrac Railway Co. (Oppenheim, *op.cit.*, Vol 1, page 941). Both parties accepted the

League's ruling. By the same principle, in the Treaty of 20th December, 1928, between Britain and China, the parties abrogated all provisions of the existing Treaties limiting the right of China to settle her national customs tariff and agreed that henceforth the principle of complete national tariff autonomy should apply. (Oppenheim, *op. cit.*, Vol. 1, page 942). In the second place, this claim is a textbook example of tautology, since the *raison d'être* for invocation of this doctrine is implicitly a state of initial disagreement between the parties to a Treaty. At the same time, instead of defending its position by reasoned argument, Iraq reasserted its attitude of 1959, and again declared Iraqi sovereignty over the whole of the Shatt al-Arab.

In marked contrast to the paucity of rational Iraqi arguments in reply to Iran's February note and April re-affirmation that the 1937 Treaty was null and void, there was, unfortunately, no shortage of vituperative emotional reaction from Baghdad. The government-controlled newspaper *Al Thawra* saw Iran's attitude as evidence of a collusion against Iraq by Iran and the C.I.A. Another Baghdad daily, *Al Horriya*, viewed the Iranian move as part of a plot for the domination of the Persian Gulf, and declared that Iraq would "stand against all attempts to deprive the Gulf of its Arab character". Perhaps the most bizarre of all the Iraqi reactions was that of the Deputy Premier, General Ammash, who reportedly told a Press Conference in Beirut on 22nd April that the "Iranian challenge was aimed at exerting pressure for the withdrawal of Iraqi troops from Syria and Jordan", and represented an anti-Arab collusion by Iran and Israel. Such reactions were later neatly summarised by *The Guardian* on 22nd May as "fresh evidence of a state of advanced paranoia".

Significantly, no other Arab country—no other country at all in fact—has either appreciated or understood the stand taken

by Iraq. On the other hand, King Faisal of Saudi Arabia, King Hussein of Jordan and the Ruler of Kuwait have all attempted to mediate in the issue, and have implicitly indicated the direction of their sympathies by first approaching Iran. Most recently, on 2nd June, according to reports in *Al Ahram*, the semi-official Cairo daily, President Nasser has sought to mediate. Even he, however, declined to make the first approach to Baghdad and sought instead the help of the Turkish government which had "responded favourably to the Egyptian demand and would soon inform Baghdad of Iran's position on the issue". At the same time, Egyptian sources made agency reporters in Cairo aware of the Egyptian suspicion that "the Iraqis deliberately invited the crisis as a cover for plans to withdraw their forces from the Eastern Front (against Israel) and employ them in a largescale summer offensive against restive Kurdish tribes in the north of Iraq". If one reads the reported statement of General Ammash together with the Cairo interpretation of the Iraqi action, one is faced with the inevitable conclusion that Iraq has created this crisis with a view to breaking away from the political-military mainstream of the other Arab nations.

Unfortunately, the Iraqi reaction was by no means confined to words. Unable, it seems, to formulate a reasoned reply to the Iranian case, the Iraqi authorities sought an outlet for their feelings in violence directed not against the armed forces of Iran, but against wholly unprotected Iranian pilgrims and Iranian nationals domiciled in Iraq. True to their record in 1959, the Iraqi authorities instituted a series of vicious reprisals against the one million strong Iranian community in Iraq, but this time on a far greater scale. Some 20,000 Iranian nationals have so far been deprived of their property and forcibly expelled, often after brutal beatings and in some cases after torture. Foreign correspondents investigating this sad exodus

were appalled at what they found. A report in *The Times* of 19th May from its Tehran correspondent serves to summarise many similar reports in the world press: "Lorries and buses loaded with hundreds of Iranians expelled from Iraq because of the dispute between the two countries over navigation in the Shatt al-Arab river are arriving here every day. Their stories are almost identical. They were either taken away from work or dragged out of bed at midnight, taken to some military interrogation centre for interrogation and beating, then put into lorries to be carried like cattle to Iranian frontier posts. A foreign correspondent, who has visited the refugee camps at the border town of Khosravi, said: 'I have seen men with broken bones, others with scarred bodies, and hordes of frightened, bewildered children. I have seen grown men close to tears—fearful not for themselves, but for their wives and children who are still detained in Iraq.'". There is evidence too that the people of Iraq were as unhappy as the rest of the world at the barbarities perpetrated on their Muslim Iranian brothers by the Baghdad regime, which appears to have reached a nadir of unpopularity at home. On 9th May General Ammash found it necessary to issue a reassuring statement to the Iraqi Press to the effect that "only elements likely to disturb public order have been expelled" (*Agence France Presse*).

The self-control of the Iranians in the face of these provocations has remained phenomenal. The number of Iraqi citizens domiciled in Iran is around 200,000. Not a hair of their heads has been touched despite what must have been the strongest of temptations to retaliate. Instead Iran made a request through the proper channels to the United Nations Secretary-General, inviting special representatives of the U.N. Human Rights Commission to make an on-the-spot investigation. At the same time, Iran set about the practical problem of feeding, clothing, healing and housing a flood of refugees. In

addition to government action, money and supplies have poured in to the Red Lion and Sun Society, the Iranian equivalent of the Red Cross, from all over the country to ensure that these victims of Iraqi "paranoia" suffer the minimum of further hardships.

XII

In a long and moderately argued analysis of the Shatt al-Arab situation, the Tehran daily *Kayhan* stressed on 27th May that Iran has always "maintained a sober and friendly attitude to its Arab neighbours . . . this has enabled Iran to build up exemplary relations with countries such as Kuwait, Saudi Arabia and most of the Persian Gulf sheikhdoms . . . relations with Morocco, Tunisia and Algeria have also been good . . . Iran's firm stand on the Shatt al-Arab issue is not merely dictated by the exigencies of national integrity . . . for the Iraqi leaders to acknowledge the death of the colonial Treaty and to take up Iran's call for creating a healthy atmosphere in relations between the two nations would be a courageous break with their disease-ridden tradition of pseudo-Machiavellian politics."

Kayhan points out that one of the problems facing Iran throughout the Shatt al-Arab negotiations, or rather the lack of them, had been that "Iraq's political instability and its habit of changing governments at short intervals made it impossible for Tehran to know with what kind of men it had to deal at any given time. With the accession to power of the second Aref, and notably during Abdul Rahman al-Bazzaz's brief premiership, relations improved and a new Treaty on the Shatt seemed within the realms of possibility." Trade with Iraq rose by 20 per cent, and Iraqi visitors to Iran increased to 50,000 in

1967/68. Alas, *Kayhan* continues: "All too soon Bazzaz was gone, to be followed by Aref himself. The new Ba'athist junta which took over came up with promises that relations with Iran and Turkey would be improved and that Iraq would negotiate a new Treaty with Iran concerning the Shatt 'and all other problems'. Within a few months all that had changed."

What has not changed is the sincere hope and earnest desire of the people and government of Iran that the Iraqi authorities will appreciate the statesmanship of Iran's self-restraint, and will refrain from continuing in their present course of action, which can only intensify the prevailing crisis in relations between the two countries. The Shatt al-Arab issue can be settled quite peacefully, provided that the Iraqi authorities decide to avail themselves of the Iranian government's constantly repeated offer to achieve a negotiated settlement based on the principles of equity and in accordance with established practice in the demarcation of international waterways. The Iranian position is summarised in the final paragraph of a letter dated 9th May from Iran's Permanent Representative at the United Nations, Mr. Mehdi Vakil, to the President of the Security Council: "In conclusion, I should like to reiterate that, while we shall remain steadfast in the face of any encroachments against our inalienable rights, we also stand by the offer we have made in good faith to the Iraqi Government. We are prepared to conclude immediately a new treaty with Iraq under which the sovereign rights of both nations would be safeguarded in the Shatt al-Arab in accordance with established rules of international law and justice. In this way, it is our earnest hope that a major obstacle to the good neighbourly relations between our two countries would be removed once and for all, and thus pave the way for making the waters of Shatt al-Arab serve the interest of both countries for the common good."

DOCUMENTS

APPENDIX A

Frontier Treaty

Between the Empire of Iran and the Kingdom of Iraq

His Imperial Majesty the Shahanshah of Iran,

of the one part

His Majesty the King of Iraq,

of the other part

Sincerely desirous of consolidating the bonds of brotherly friendship and good understanding between the two States and in order to settle definitely the frontier question between their two countries, have decided to conclude the present Treaty and for this purpose have appointed as their Plenipotentiaries: *His Imperial Majesty the Shahanshah of Iran*: His Excellency Enayatollah Samiy, Minister for Foreign Affairs *His Majesty the King of Iraq*: His Excellency Dr Naji Al-Asil, Minister for Foreign Affairs who, having exchanged their full powers, found in good and due form, have agreed on the following:

ARTICLE I

The High Contracting Parties agree that the following documents, with the exception of the modification specified in Article II of the present Treaty, are considered valid and that They are bound to observe them:

- (a) The Protocol relating to the Turko-Persian Delimitation signed at Constantinople on November 4th, 1913;
- (b) The Proceedings of the Commission of Delimitation of the Frontier of 1914. Having regard to the provisions of this Article and with the exception of the provisions made in the next following Article, the boundary line between the two States is that defined and traced by the abovementioned Commission.

ARTICLE II

The boundary line on reaching the furthest point of Shoteit Island (approximately latitude $30^{\circ} 17' 25''$ North, longitude $48^{\circ} 19' 28''$ East) rejoins, in a line drawn perpendicularly to the low-water mark, the thalweg of Shatt al-Arab and follows it as far as a point situated opposite the existing jetty No. 1 of Abadan (approximately latitude $30^{\circ} 20' 8.4''$ North, longitude $48^{\circ} 16' 13''$ East). From this point the boundary line rejoins the line of low-water and follows the tracing of the frontier as described in the Proceedings of 1914.

ARTICLE III

Immediately after the signature of the present Treaty the High Contracting Parties shall appoint a commission for the purpose of erecting the frontier pillars the location of which has been fixed by the Commission mentioned in paragraph (b) of Article I of the present Treaty and of fixing additional pillars, which it considers useful to erect.

The composition of the Commission and the programme of its work shall be fixed by a special arrangement between the two High Contracting Parties.

ARTICLE IV

The following provisions shall apply to the Shatt al-Arab from the point where the land frontier of the two States descends into the said river as far as the open sea:

- (a) The Shatt al-Arab shall remain open to merchant ships of all countries equally. All dues levied shall be in the nature of payment for services rendered and intended solely to cover in an equitable manner the expenses of maintaining the navigability, and improving the navigable channel and the approach, of the Shatt al-Arab from the seaward side, or to meet expenditure incurred in the interest of navigation. The said dues shall be calculated on the basis of the official tonnage of ships or their draught, or both together.
- (b) The Shatt al-Arab shall remain open to the passage of warships and other vessels belonging to the two High Contracting Parties used for non-commercial purposes.
- (c) The fact that in the Shatt al-Arab the boundary line sometimes follows the low-water mark and sometimes the thalweg or the *medium filum aquae* does not prejudice in any way the right of use of the two High Contracting Parties in the whole course of the river.

ARTICLE V

The two High Contracting Parties, having a common interest in the navigation of the Shatt al-Arab as defined in Article IV of the present Treaty, undertake to conclude a Convention concerning the maintenance and improvement of the navigable channel, dredging, pilotage, dues to be levied,

sanitary measures, measures to be taken for the prevention of smuggling, and all other matters relating to the navigation in the Shatt al-Arab as defined in Article IV of the present Treaty.

ARTICLE VI

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Baghdad as soon as possible. It shall come into force as from the day when this exchange takes place.

In witness whereof the Plenipotentiaries of the two High Contracting Parties have signed the present Treaty.

Done at Tehran, in Arabic, Persian and French, of which in case of difference the French text shall prevail, the fourth day of July, one thousand nine hundred and thirty-seven.

(Sd.) SAMIY

(Sd.) NAJI AL-ASIL

PROTOCOL

At the time of proceeding to the signature of the Treaty concerning the delimitation of the boundaries between Iraq and Iran, the two High Contracting Parties have agreed as follows:

I

The geographical co-ordinates shown approximately in Article II of the above-mentioned Treaty shall be definitely

fixed by a Commission of experts composed of an equal number of members nominated by each of the High Contracting Parties.

The geographical co-ordinates so determined definitely within the limits fixed in the above-mentioned Article shall be recorded in a *procès-verbaux* which, after having been signed by the members of the above-mentioned Commission, shall be an integral part of the Boundary Treaty.

II

The High Contracting Parties undertake to conclude the Convention mentioned in Article V of the Treaty in the course of one year from the entry into force of the Treaty.

If, notwithstanding the efforts exerted by Them, this Convention is not concluded in the course of the year, this period may be extended by common agreement of the High Contracting Parties.

The Imperial Government of Iran agrees that during the period of one year mentioned in the first paragraph of this article and during the extension of this period, if this extension takes place, the Royal Government of Iraq shall undertake on the bases now in force all matters which are to be dealt with by this Convention. The Royal Government of Iraq shall, by means of biannual communications, keep the Imperial Government of Iran informed of the works carried out, the dues levied, the expenses incurred and of all other measures taken.

III

The authorisation given by one of the High Contracting Parties to a warship or other public vessel used for non-commercial purposes belonging to a third State to enter ports

belonging to the said High Contracting Party and situated on the Shatt al-Arab shall be regarded as having been given by the other High Contracting Party in order that any such vessel may make use of its waters when passing through the Shatt al-Arab.

Nevertheless, that High Contracting Party who has given such an authorisation must inform the other Party thereof immediately.

IV

It is understood that, subject to the rights of Iran in Shatt al-Arab, nothing in this Treaty prejudices the rights of Iraq and its obligations undertaken towards the British Government regarding the Shatt al-Arab in accordance with Article IV of the Treaty dated the 30th June, 1930, and paragraph VII of its Annexure, signed on the same date.

V

The present Protocol shall be ratified at the same time as the Treaty concerning the delimitation of the frontiers of which it shall form, as an Annexure, an integral part. It shall come into force at the same time as this Treaty.

The present Protocol is made in Arabic, Persian and French. In case of difference the French text shall prevail.

Done at Tehran, in duplicate, on the fourth day of July, one thousand nine hundred and thirty-seven.

(Sd.) SAMIY

(Sd.) NAJI AL-ASIL

APPENDIX B

*Full text of the statement made by
Mr Amir Khosrow Afshar,
Deputy Minister for Foreign Affairs of Iran
in the Senate on 30th Farvardin 1348 (19th April 1969)*

Mr President: I must thank the Honourable Senator for informing me beforehand of the purport of the question he wished to put to the Government in the Senate, since it provided me with an opportunity to prepare a studied reply, which, with your permission, I now place before the Honourable Senators.

With reference to the incident of 15th Esfand last (6th March 1969), which caused the death of an Iranian fisherman, the Iranian frontier authorities immediately lodged a protest with their Iraqi counterparts, and the Imperial Embassy in Baghdad also lodged a protest with the Iraqi Government demanding an explanation and asking that Government to instruct its frontier guards to avoid any repetition of such aggressive actions and to compensate for the loss incurred. It must be noted with regret that no reply has come forth from the Iraqi Government thus far.

Concerning the incident on 3rd Farvardin (23rd March 1969) in which a number of Iranian fishermen were arrested by the Iraqis, the Imperial Embassy immediately lodged a protest with the Iraq Government requesting their immediate

release. As I have already informed the Honourable Senators, these fishermen were subsequently freed.

Concerning the restrictions and persecutions initiated against Iranians domiciled in Iraq, I must state that the information which has reached the Honourable Senator is true. For some time past the Iraqi authorities have been taking strong action against Iranians, and have arrested some of them without charges. We have also received reliable reports to the effect that in some cases the Iraqis even resorted to torture.

I do not know whether the Honourable Senator has been informed that even on the Baghdad Radio and Television, an Iraqi Communist arrested by the authorities was persuaded to make false and purely fictitious statements about Iran.

It is obvious what lies behind all these provocations. I do not wish to go into detail, but I must assure you that the Imperial Government of Iran is keeping a very close watch in these matters, and hopes that the Iraqi Government will realise the unpleasant and dangerous consequences of such provocations, persecutions, and propaganda, and will stop their recurrence.

At this stage I feel it is timely to give a brief account of the situation in the Shatt al-Arab, the real and historical name of which is Arvand Rud, and which is the common frontier between Iraq and Iran. The Imperial Government of Iran, in compliance with His Imperial Majesty the Shahanshah Aryamehr's desire for peace, as well as the very ancient ties which Iran has had with Iraq, has consistently tried to find a peaceful solution to its frontier disputes with Iraq, the most important of which is the question of the Shatt al-Arab.

Since the year 1937 when the Frontier Treaty between Iran and Iraq was concluded, the Iraqi Government showed no inclination to bind itself to the terms of the Treaty. As a result the two main Articles, IV and V, and Article II of its

appended Protocol, which refer to the joint administration of the Shatt al-Arab, and the manner of disbursement of the dues collected there have not been put into effect by the Iraqi Government; and continuous efforts of the Imperial Government of Iran to persuade the Iraqi Government to fulfil its undertakings and obligations under the Treaty have proved ineffective. The Iraqi Government has monopolised the administration of the Shatt during the past thirty years.

During all this time the very considerable revenue derived from shipping on this river, which forms the common frontier between the two countries, has been solely collected by the Port of Basrah Authority, which has arbitrarily, and against the Terms of the Treaty, spent it on projects such as the construction of hotels, and the airport in Basrah, paying no heed to Iran's protests, and even refusing to submit the statement of accounts of the revenue so collected.

Under these circumstances the Iranian Government has repeatedly announced, both in the Senate and the Majlis, and has also recently informed the Iraqi Government in writing, that, since the Iraqi Government has abrogated the basic Articles of the 1937 Treaty, and, further, as the efforts of the Imperial Government of Iran to cause the Iraqi Government to fulfil its obligations have failed, the 1937 Treaty is considered null and void by the Imperial Government in accordance with the established principles of International Law.

Again, among the conditions stipulated by International Law for the abrogation of agreements without a time limit, such as the Treaty of 1937, is the principle of *rebus sic stantibus*. This principle is based upon the theory that any agreement entered into remains valid as long as the conditions existing at the time of the signing of that agreement remain unchanged. Once these conditions cease to exist the very *raison d'être* of the agreement is lost, and either of the contracting parties will have

the right to announce the abrogation of the Treaty, or any section thereof, which does not conform with the new conditions. This principle has been fully recognised and there are numerous instances of its application by various governments.

With due consideration to the aforementioned principle, it must be noted that the Frontier Treaty of 1937 between Iran and Iraq was concluded at a time when British colonialism was at the height of its power, dominating Iraq, using force, and bringing pressure upon Iran to sign that Treaty, which handed over all of the Shatt, except two sections, to Iraq.

No similar case can be found in the world where a large and navigable river like the Shatt al-Arab, which is the common frontier between the two countries, is controlled by one of the two parties alone.

How can one accept that a frontier river, a great portion of the waters of which flow from sources in Iran, should belong to the other side? In the world today there are definite rules and regulations governing rivers which constitute the common frontiers of two countries.

Now that the era of colonialism has ended, and the conditions prevailing in 1937, those under which the Treaty was signed no longer exist, all traces of colonialism must also be wiped out. It is therefore astonishing to find that, although colonialism has come to an end in a country, it still tries with all its might to maintain the traces and effects of colonialism, of which the Treaty of 1937 is a specimen.

Once again, in accordance with the established Canons of International Law, one of the important principles in concluding any agreement is the equality of rights of the two contracting parties. The question is whether or not this principle of equal rights has been observed in the Shatt al-Arab.

If this principle of equality was observed, how is it that the Thalweg principle, or the Median Line, always recognised as

the frontier line where a large river forms the common frontier of two countries, was not adhered to, and, except for two sections of the river, the whole of the Shatt al-Arab was ceded to Iraq?

One of the responsible Iraqi authorities is reported as saying that in the Treaty of 1937 the section of the Shatt al-Arab (i.e. the Median Lines in front of Abadan and Khorramshahr) were given to Iran as a gift. This claim is absolutely baseless, and completely contrary to the truth. During the whole period when the Ottoman Empire was Iran's neighbour in this region no mention was made of the question of sovereignty and the demarcation of the Iran-Ottoman frontier in the Shatt in any of the Treaties (collectively known as the Erzerum Treaty). In accordance with the available documents the Iranian and the Ottoman Governments, from the beginning of navigation in the Shatt al-Arab, and perhaps from a much earlier time, exercised joint sovereignty over the Shatt al-Arab up to the point where both shores of the river came within the Ottoman territory.

I will not elaborate this point further, but I would like to declare once again in this House, that owing to the reasons I have stated, the Frontier Treaty of 1937, between Iran and Iraq, has been violated by Iraq, and as far as the Imperial Government of Iran is concerned, it has become worthless, and null and void. Further, the Imperial Government of Iran does not recognise and accept along the length of the Shatt al-Arab any other principle but that which is internationally recognised, i.e. the Thalweg Principle, or the Median Line. It will therefore resist with all its might any encroachment upon its sovereignty in the Shatt al-Arab and will not allow any aggression there.

I deem it necessary to mention that on April 15th the Iraqi Under-Secretary for Foreign Affairs requested a meeting with His Imperial Majesty's Ambassador in Baghdad, who was told

that the Iraqi Government considered the Shatt al-Arab an integral part of its territory, and demanded that all ships sailing in the Shatt al-Arab under the Iranian flag should lower their flags before entering the Shatt, and the Imperial Iranian Navy personnel should not be aboard vessels entering the Shatt. He warned that if the demands were not complied with the Iraqis will not allow any vessels bound for an Iranian port to enter the Shatt al-Arab.

The threat of the Under-Secretary of the Iraqi Ministry for Foreign Affairs directly aims at the natural and inalienable rights of Iran, and is a menace to Iran's sovereignty. How can anyone be permitted to bring down the Iranian flag or to insult the Imperial Armed Forces? Today even those countries possessing nuclear power do not resort to such threats against weaker nations—not to mention Iraq.

The Imperial Government of Iran, in accordance with its desire to maintain and develop friendly relations with Iraq is prepared to enter into a new Treaty with Iraq. Nevertheless I would like to inform this House, as we have already informed the Government of Iraq, that any violation of Iran's rights of sovereignty in the Shatt or any attempt at preventing vessels bound for Iranian ports from entering the Shatt, any restrictions imposed on vessels flying the Iranian flag, and any demonstrations of force against the Imperial Armed Forces will meet with the strongest reaction. It shall answer fire with fire, and shall hold the Government of Iraq as solely responsible for any development which would have wide repercussions.

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Reference.....

W. 164.

Mr. Hinchcliffe (NED) *PMH* 4/.

Thank you for letting me see this, which I have read with much interest, and Chapter VI in particular. It gives, on the whole, a much more moderate and less garbled account than that put out by the Imperial Ministry of Foreign Affairs. It is also much better set out and argued, possibly because he seems to have employed British research assistants.

2. That there were very considerable differences of opinion between the Admiralty and the FO could hardly be missed by anyone with access to the records, and Mr. Sanghvi's account does bring out the long held FO view that it was not unreasonable to accept the Persian claim for a thalweg frontier, at least off Abadan.

3. Two of his assertions, however, strike me as being wide of the mark, the first being that Iraq was all along willing to accept a thalweg frontier in the Shatt al Arab. None of the documents which I have seen suggest anything of the sort, until January 1937 when there was an Iraqi volte-face following the unexpectedly favourable terms put forward by the Persians as a basis for settlement. Even more astonishing is the assertion that the Admiralty won the day. This is a complete misinterpretation of the records which show, as do the terms of the Treaty of 4 July, 1937, that they did not.

A. Paul

(A. Paul)
Middle East Section
Research Department.

Mr Makafini 11 July 1969.
Mr Acton 14/7

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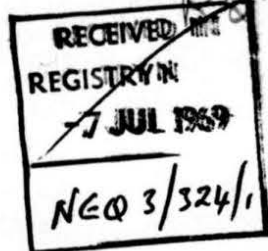
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Sam Wilson

*Thanks to the booklet
which you sent him*

F.C.O.

David Wilson



For the last two months troops of the Iranian and Iraqi armed forces have faced each other in a state of alert across the border river between the two countries, the Shatt al-Arab. At any moment, according to observers, a conflagration could have ensued and at least one journalist had no doubt that "any artillery battle could scarcely fail to be a massacre for both sides".

The factors behind this new threat to the peace of the Middle East are complex. In order to clarify them, we are publishing a study of the Shatt al-Arab issue in our briefings series next Monday, June 30. We have pleasure in enclosing an advance copy in the hope that it may be of value.

Yours sincerely,

David Missen

David Missen

*pl/la Achnarionant
is sufficient*

N.F.A.

10/10/69

7/7



Directors Ramesh Sanghvi (India) David Missen Richard Barber

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RECEIVED IN REGISTRY No. 10 11 JUL 1969 NEQ 3/324/1
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Examples of Rivers forming International Boundaries to the Sea

A. Africa

1. The Congo (Kinshasa) - Angolan Frontier

The frontier was defined as the thalweg of the R. Congo by the Conference of Berlin in 1885, which also designated the Congo an international river providing freedom of navigation for all signatories.

2. Liberian - Ivory Coast Frontier

The frontier was fixed on the right bank of the R. Cavally by agreement between France and Liberia in 1907, replacing an earlier arrangement defining the thalweg as the frontier, on the grounds that a more clearly defined frontier would be easier to administer and less likely to lead to dispute. The Liberians have a long standing claim to the territory between the Cavally and the San Pedro in the Ivory Coast but do not dispute the question of the river boundary as such. The 1907 agreement provided for freedom of navigation for both countries.

3. Mauritania - Senegal Frontier

The frontier was defined as the right bank of the R. Senegal by a French decree of 1933. The navigation issue does not arise since the river is only open to small craft.

All the countries concerned have re-affirmed the existing frontiers since their independence.

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B. South America

1. Surinam - Guyana Frontier

The Guyanese bank of the R. Corentyne has been accepted as the frontier to the Atlantic since an agreement between the two colonies in 1799. Although a frontier Treaty has never been signed, a draft was agreed before the outbreak of the Second World War, and negotiations were resumed in 1948. In 1949 HMG proposed a draft Treaty, almost identical with the draft agreed in 1939, acknowledging the sovereignty of Surinam over the waters of the R. Corentyne and the R. Kutai, guaranteeing freedom of navigation to all merchant shipping and the warships of the High Contracting Parties, and providing for joint maintenance of the channel. Negotiations continued inconclusively until 1962 when Surinam proposed that the boundary should follow the thalweg of the R. Corentyne and the New River in exchange for recognition of her claim to the territory of the New River Triangle near the common border with Brazil. HMG had previously decided not to propose a change in the existing frontier on the grounds of the prohibitive cost of a thalweg demarcation but, at the outset of the negotiations in 1930, recognition of Surinamese sovereignty over the Corentyne was made conditional on the renunciation of her claim to the New River Triangle and the Guyanese could therefore withdraw recognition of the present frontier.

2. Argentina-Uruguay Frontier

The frontier lies along the thalweg of the R. Uruguay as far south as Punta Gorda, near its confluence with the R. Parana in the R. Plate estuary. The channel lies near the Uruguayan coast, but is maintained by Argentine dredgers. Argentina claims

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sovereignty to the thalweg and Uruguay to the median line of the estuary. The two countries have traditionally co-operated in navigation matters and it is hoped that the dispute will be solved by some form of joint territorial jurisdiction.

C. South East Asia

1. Burmese - Thai Frontier

The international boundary between Burma and Thailand is defined by an exchange of notes between HMG and Thailand in 1934 as the thalweg of the R. Pakchan. The river forms the boundary for 70 miles to the Indian Ocean. There is no record of a Navigation Convention, and the existing frontier has been reaffirmed by Burma since her independence.

Middle East Section,
Research Department.
11 July, 1969.

SANJABI DENIES IRAQI CHARGE

FORMER Justice Minister Karim Sanjabi yesterday denied reports published by Iraqi propaganda media saying that he has been "arrested and subjected to ill-treatment and torture". In a letter to Kayhan, Sanjabi also expressed "full support" for the Government's stand on the Shatt-al-Arab issue.

"It has been brought to my attention," Sanjabi wrote in his letter, "that I have, supposedly, been arrested and subjected to ill-treatment and torture by the Iranian Government. I would like to make a few points clear:

"First, I have not been subject to the slightest harassment or persecution and, secondly, I am one hundred per cent behind the Iranian Government's position concerning the current dispute with Iraq. I am sure this is the position adopted by all patriots.

"The Iraqis claim that the Iranian Government has chosen this opportunity to bully them and weaken their position vis-a-vis Israel. If this were true why should the Iraqis ever have made this possible, especially now that they are facing a determined foe like Israel?



SANJABI

NEQ 3/324/1
AL KAYHAN.

3.7.69.

"Why do the Iraqis refuse the application of the principles of international law and good neighbourly relations to a border waterway? Do they consider Iran less powerful and less worthy than Israel, to whom they now want to give the right of free passage in the Suez Canal while they hope to deprive Iran of its historical and international right?

"Why do the rulers of Iraq ignore the national, religious, economic, cultural and historical bonds of friendship between the peoples of Iran and Iraq? Why don't they respect the several million Shi'ites of Iraq and the hundreds of thousands of Iranians working and living in that country? Why do they expel Iranians and force them to leave their domicile? Have they forgotten that each year tens of thousands of Iranian pilgrims visit Iraq with hearts full of piety and that Iranian capital has been the cause of prosperity and economic life in the holy cities?

"As far as the Iraqi crocodile tears shed for the Sanjabi tribe are concerned I would call upon the rulers of Baghdad first to refrain from constant aggression against Sanjabi land and pasture, which under the 1914 Border Demarcation Treaty stretches to Khaneqain and Qezel-Rabat."

"The Sanjabis are the sons of the same brave men and women who defended Iran against Ottoman and other aggressors for over two centuries. Acting as Iran's border guards they gave their lives for their fatherland. There is no doubt that if and when necessary the Sanjabis will prove that they are worthy sons of their esteemed ancestors."

10, DOWNING STREET, S.W.1.

NE

PRIVATE SECRETARY

**Foreign and Commonwealth
Office.**

The attached communication addressed to the Prime Minister is transmitted to you to be dealt with in whatever manner is considered appropriate by the Department concerned. It ~~refers to previous correspondence which was forwarded to you on~~.....

1. ~~No acknowledgment has been sent from here.~~

2. A plain acknowledgment has been sent from here, adding that ~~the communication has been forwarded to your Department.~~

3. A plain ~~acknowledgment~~ has been sent from here, adding that the communication is receiving attention. You should ensure that a substantive reply is sent from your Department as soon as possible.

4. A copy of the ~~acknowledgment~~ which has been sent from here is attached.

Date July 3, 1969

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NEQ 3/324/1

11 July, 1969.

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Thalweg - International River Frontier

Please refer to your letter 3/40 of 4 June.

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2. I apologise for the delay in producing the enclosed note which you had asked for in the fourth paragraph of your letter but as I am sure you will appreciate Research Department have been fully occupied in recent months largely because of the work involved in ferretting out and examining the various papers quoted by the Iranians as the basis for their allegations that we were responsible for weighting the 1937 treaty against them. Incidentally you might like to know that an Iranian research team spent over four months in the India Office and C.O.I. libraries sifting through papers available to the public under the '30 years rule', in a search for documentary evidence to support their cases on the Shatt Al Arab and Bahrain.

3. You may find the note useful when discussing the topic with officials. The only conclusion to be drawn from it (and this is hardly helpful to the Iranians) is that in some instances the Thalweg is accepted by the countries concerned as the International boundary to the sea and in other cases it is not!

4. I am copying this letter with its enclosure to the recipients of yours.

(J. P. Tripp)

D. F. Murray, Esq.,
Tehran.

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Pa
[Handwritten signature]

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Near Eastern Department,

168

17 July, 1969

(NEQ 3/324/1)

**Iranian allegations of British involvement
in the Iran/Iraq Frontier Treaty of 1937**

95

Please refer to Anthony Acland's letter NEQ 3/324/1 of 7 May addressed to Tehran and copied to you and to Baghdad.

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... 2. You may already have seen the Iranian representative's letter to the President of the Security Council (S/9200/Add 1) of 9 May 1969. I attach a copy for ease of reference.

3. In these documents the Iranians have spelled out in some detail specific allegations of British interference to secure the interests of Iraq (by definition a British puppet) to the detriment of Iran during 1936/37 and indeed as early as 1932.

... 4. Research Department have examined the Iranian charges and the result of their investigations is contained in the enclosed document which may be of interest.

attd
below.

(P.R.M. Hinchcliffe)

S. L. Egerton, Esq.,
UKMIS,
New York

c.c. J.S. Champion, Esq.,
Tehran

P. McKearney, Esq.,
Baghdad

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The Iranian Letter to the Security Council (S/3200/4310)
(9 May, 1969).

RECEIVED IN
S/3200/4310
15 JUL 1969
NEQ 3/324/1

See file
(158)

Introduction

In the documents annexed to the Iranian letter of 9 May, 1969 to the President of the Security Council a number of references are made to British interference and exercise of pressure, in 1936/37 and before, to secure the interests of its "puppet government" (i.e. Iraq) to the detriment of Iran. The specific charges of interference can be summarised as:

- A. Insertion of Clause 4 into the Protocol attached to the Frontier Treaty of 4 July, 1937.
- B. Admiralty pressure to prevent agreement on a thalweg frontier in the Shatt al Arab.
- C. Admission by the Iraqi Government spokesman of British dominance and interference in 1937.
- D. An alleged commitment entered into by HMG in 1932 to secure Persian recognition of the independence of Iraq
- E. British support for the Iraqi complaint against Persia at the League of Nations in 1934/35.

2. Perusal of the Foreign Office records relating to the periods in question makes it clear that the Iranians have, with the possible exception of E above, no grounds for their allegations, and that they have used their material largely out of context, partly no doubt of deliberate purpose, but partly also through failure to comprehend the real meaning of the matters under study.

- A. Clause 4 of the Protocol annexed to the Treaty of 4 July, 1937.

3. The Iranian allegation (statement issued by the Imperial Ministry of Foreign Affairs on 27 April, 1969) reads as follows:

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"Furthermore, with due regard to the historical precedents since the conditions which were in force at the time of the conclusion of the Treaty, when British colonialism used all its strength to protect Iraq, inserting various clauses into that agreement, such as Clause 4 of the protocol annexed to that Treaty, ascertaining the special obligations of Iraq towards Britain"

4. In January 1937 the Persians indicated to the Government of Iraq that they were prepared to agree to a frontier settlement which should:

- a. recognise the protocol of 1913 and the demarcation of 1914.
- b. give them an anchorage 4 miles long extending to the middle of the Shatt al Arab opposite Abadan.
- c. allow freedom of navigation in the Shatt to ships of all nations on payment of dues etc.
- d. allow free access to the warships of Iraq and Persia.
- e. provide for the conclusion of a mutual agreement on navigation, conservancy, etc. [Baghdad to Foreign Office Saving Telegram 3 of 23 January, 1937.]

5. The Iraqis were so impressed that without consulting HMG they submitted a draft treaty embodying the Persian proposals with minor amendments of their own. This draft [at 881/73/34 of 7 February, 1937] was considered not unsatisfactory by HMG which felt, nevertheless, that Iraqi anxiety for a settlement might be leading them to ignore certain issues, one of which was access to Basra for British ships of war. H.M. Ambassador in Baghdad was therefore instructed to draw the attention of the Iraqi Ministry of Foreign Affairs to this vital point [Draft Telegram at E 1546; 17 March, 1937].

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6. There is no further record until 19 June, 1937, when the Government of Iraq submitted a proposal to the Government of Persia that both should place on record, in notes to be exchanged at the time of signature of the Treaty, their agreement that there was nothing in it in any way prejudicial to the rights and obligations of Iraq under the Anglo-Iraqi Treaty of Alliance of 1930

[E 3393/73/34 of 22 June, 1937]. The Persians not only did not object to this proposal, but made an additional suggestion of their own, resulting in the incorporation of Clause 3 of the Protocol [E 3652/73/34 of 5 July, 1937].

7. It is thus therefore true to say that in 1937 HMG, then being Iraq's ally, perfectly correctly and justifiably drew attention to the need to preserve their ability to act under the Treaty of Alliance. The point was taken, and there is no evidence that any further representations were made. The Persian Government of the time accepted that Iraq had obligations under her Treaty with Great Britain, there being no evidence that they were subjected to any pressure to do so.

B. Allegations of Admiralty Pressure.

8. The Iranian allegation is that:

"In the question of fixing the Talweg line as the common frontier, a letter from the British Admiralty is in hand, which shows that in order to safeguard British interests the British Government preferred to leave the Shatt al Arab in the hands of its puppet Government, i.e. the Government of Iraq, which did not agree with fixing the common frontier at the Talweg line."

9. In the Foreign Office records there are many letters, minutes, etc. (not one only) of Admiralty origin in which the attitude adopted is somewhat as the Iranians allege. What they ignore is:

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- a. that the Admiralty and the British Government are not one and the same thing.
- b. Foreign Office opinion, which all along accepted that no effective settlement was possible which would deny the Persians a thalweg frontier at least opposite Abadan.

"A Frontier settlement based on a rectification at Abadan without the actual conclusion of a conservancy, or even a navigation convention is not all we, and still less the Admiralty, would wish, but anything is better than an indefinite extension of the present dispute." [E 6238/10/34 of 5 October, 1936].

"I do not personally think the heavens would fall if the Persians got the thalweg for a short distance off Abadan, provided that the Iraqis had rights of passage for themselves and their allies. But the Admiralty are strongly opposed to this, safeguards or no safeguards, and in theory their reasons are excellent. But we have to think not of what we would like, but of what we can get." [Minute by Mr. Rendel at E 7040/10/34 of 11 November, 1936].

- c. that the Admiralty, though strongly opposed to concessions which might interfere with access of warships to Basra, in fact failed to get its views accepted.
- d. that the Persian proposal of January 1937 for a thalweg frontier 4 miles long opposite Abadan was accepted and incorporated in the Treaty of 4 July, 1937.

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10. The whole allegation, therefore, based, as it appears to be, on a single document taken out of context, is completely untrue.

(See also Research Department minutes of 1 and 5 May, 1969.)

C. Admission by the Government of Iraq spokesman that in 1937 Iraq was under British domination.

11. The Iranian letter contains the following:

"The spokesman of the Iraq Foreign Ministry says that at the time of the conclusion of the Treaty, i.e. in the years 1936 and 1937, Iraq was under the pressure of colonialism, and the Treaty was signed in such a situation."

12. The facts are that Iraq had been an independent member of the League of Nations since 1932, but that her relations with Great Britain were governed by the Treaty of Alliance of 1930 which allowed for use of certain Iraqi airfields by the RAF, and for other military facilities in an emergency. There were also a number of British advisors in various Iraqi Ministries. The Iranian reference is to a statement carried on the Home Service of Baghdad Radio on 1 May, 1969 which said, inter alia:

"The conditions which prevailed in Iraq in 1936 and 1937 prove that Iraq, and not Iran, was under imperial domination. As a result of the conditions prevailing at the time the treaty was signed Iraq was forced to concede a part of its territory in the Shatt al Arab"

13. The Iraqi spokesman was of course speaking in refutation of an Iranian Foreign Ministry statement on 27 April which had inferred that Iran had been forced to sign an unfreely negotiated and unfair treaty as the result of British pressure, and was at pains to show that if pressure was used it was Iraq, and not Iran, who had been the sufferer. It is thus a characteristic

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exaggeration of what took place, but does contain an element of truth in that Iraq was advised by her British ally to make concessions altering the river frontier opposite Abadan in favour of Persia. The final Foreign Office view of the situation was as follows:

"It is therefore submitted that the true interests of Iraq, and a fortiori of HMG, who have in addition to consider the position of the Anglo-Iranian Oil Co., demand that Iraq should conciliate Persia by granting her a thalweg frontier, at least opposite Abadan. If this were done with good grace, and the remaining details of the settlement could be satisfactorily adjusted, the gain in Persian goodwill should far outweigh the attendant risks". [E 7925/10/34 of 31 December, 1936].

14. While, therefore, it can be conceded that Great Britain did exert influence with Iraq to secure a settlement, it took the form of advice only, and with the object of securing a settlement which should be acceptable to both sides. Far from encouraging Iraq to take a tough line, and then putting pressure on Persia to comply, HMG in fact persuaded the Iraqis to make concessions which should go some way towards satisfying Persian demands. The influence exercised was beneficent and to Persia's advantage.

D. Allegations of Commitments entered into by HMG to secure Persian recognition of Iraqi independence.

15. The allegation is as follows:

"Again, in accordance with a document which is at hand, when Iraq obtained her quasi-independence, the British Government, i.e. the protector of Iraq, approached the Government of Iran with a view to making the Government

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recognise officially the independence of Iraq, giving assurance that, provided Iran recognised Iraq's independence she would enter into negotiations over the Shatt al Arab question so that the sound and logical requests of Iran should be obtained".

16. It seems that the document on which the Iranians rely is that containing the proposal submitted on behalf of HMG to the Government of Persia by Sir Robert Clive in April 1929, at a time when Iraq was still under British Mandate, the full text of which is as follows:

"You may now explain to Minister of Court the reasons which render impracticable any rectification of the frontier involving a cession of territory by Irak. You may at the same time give him a categorical assurance that if Persia will forthwith recognise Irak and will state in detail her practical grievances arising out of the present state of affairs and the safeguards which she requires, HMG will definitely use their good offices with the Iraki government to assist Persia to obtain satisfaction in regard to such of her desiderata as, upon examination, appear reasonable. Recognition of Irak is, however, the first step and it is essential for two reasons firstly, to prove Persia's desire for friendly relations with Irak, and even her good faith as she has frequently in the past promised recognition in return for the acceptance by HMG of the principle of equal judicial rights; secondly because Irak must inevitably be a party to the present negotiations, and the difficulties in the way of a settlement will be increased a hundredfold if direct negotiations are not possible. Minister of

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Court must realise that main cause of the unsatisfactory state of affairs lies in Persia's non-recognition, and all outstanding questions, including the Shatt al Arab, would probably have been satisfactorily settled long ago had it been possible for the two countries to discuss them in a friendly manner." [FO to Tehran Tel. 99 of 9 March 1929: E 1220/58/34]7.

17. These instructions were contained in a French translation handed to the Minister of Court by Sir Robert Clive on 2 April, 1929, the key passage of which reads as follows:

"Mon Gouvernement prêtera ses bons offices vis-à-vis le Gouvernement irakien pour aider la Perse à obtenir ses demandes raisonnables" [Sir R. Clive's despatch No. 153 of 2 April, 1929 to Sir Austin Chamberlain: E 1663/58/34]7.

18. It is not, therefore, true to say that the offer was one of entry into negotiations on the question of the Shatt al Arab, and the Persian reception of the offer was such as to make further progress along the lines suggested impossible.

E. British Support for the Iraqi Case before the League of Nations, 1934-1935.

19. The Iranian allegation is that:

"Iraq complained in 1934 to the League of Nations, on the support of its protector Government, in order to prevent Iran from exercising her sovereign rights in the Shatt al Arab. During the time the matter was before the League for discussion, and even after that, the British Empire was supporting Iraqi arguments by all means and with every diplomatic device."

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20. There are two mis-statements of fact in the above extract:

a. the decision to complain to the League was taken by the Government of Iraq on its own initiative and without reference to HMG.

b. the complaint was not about the Shatt al Arab, but about Persian refusal to recognise the validity of the frontier settlements reached in 1913/1914.

21. The attitude of HMG to the dispute is expressed in a letter from Sir John Simon to H.M. Ambassador in Tehran [E 7452/197/34 of 13 December, 1934] which reads as follows:

"The Persian Minister asked to see me today about the appeal of the Iraqi Government to the League of Nations on the subject of the Iraq-Persian boundary. The appeal is dated the 29th November, and was, I understand, filed with the Secretariat of the League on the 4th December. M. Ala said that the Persian Government found it difficult to believe that this action of the Iraqi Government had been taken without consultation with us and that, while he realised that the Persian Government had no right to demand an answer to their question, they would nevertheless much like to be informed on the point. The Persian Minister's second point was the usual appeal to us to give his Government in advance some assurance that when we dealt with the matter as a member of the Council, Persia might count on our giving her case our favourable consideration.

2. I told the Persian Minister, as regards the first point, that although we had known of the importance which the Iraqi Government attached to the question of the boundary and from time to time had heard from them on the subject, the action of the Iraqi Government in appealing to the League of Nations was taken entirely upon their own initiative.

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3. As regards the question of our attitude at Geneva as a member of the Council when the case came before that body he would appreciate that HMG could not in any way commit themselves in advance in respect of a case which would obviously have to be decided on its merits when the time came. I suggested to the Minister, however, that the Persian Government would do well to consider very carefully the legal aspect of their position, in regard to which they would be well advised to take the best available legal opinion."

22. This is not, of course, the whole story. Both before and after their complaint to the League the Iraqis leant heavily on HMG for advice and support, and the Iranians in their perusal of the records in the PRO and IOL can hardly have failed to remark the following:

- a. Sir Robert Vansittart's advice to Nuri Pasha Said (then Iraqi Minister of Foreign Affairs), in September 1934, to seek a direct settlement with the Persians, but to make it plain that Iraq was prepared to go to the League if necessary [E 5837 and 5903].
- b. Nuri Pasha's private consultations with Foreign Office officials on the correct drafting of the complaint (for use as and when required) in which he had the benefit of advice from Messrs. Becket, Strang and Rendel, who suggested a redraft which the Government of Iraq eventually adopted [E 6006/197/34].
- c. H.M. Ambassador in Baghdad's telegram of 23 November, 1934 informing HMG that the Iraqis had practically decided to appeal to the League, and asking for support. The reply was that the decision to appeal must be the Government of Iraq's alone, but if they did so "the UK Delegation at Geneva would give them all such proper assistance and support in this matter as lies within their power." [E 7050].

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d. Mr. Rendel's minute of 15 December, 1934. "We have been so closely concerned with the circumstances leading up to the appeal, and so frequently consulted by the Iraqis over the whole affair" [E 7452/197/34].

23. Perusal of the records shows also that in the course of discussion in the League HMG consistently supported the Iraqis in their efforts to prevent the Persians, with the support of the Italian rapporteur, from obtaining concessions in the Shatt al Arab before the question of the frontier, which the Persians had themselves denounced, was satisfactorily settled.

24. The Persians were not, however, left in any doubt as to HMG's attitude, and on 30 January, 1935 Sir Robert Vansittart told the Persian Minister, in response to a request to put pressure on Iraq, that he could hope for nothing of the sort, and that he (Sir Robert) personally felt that the Government of Persia had very unwisely rejected previous proposals for settlement, and that they should be the last to be surprised at the Iraqi appeal to the League. It was a perfectly correct and proper procedure. Looked at not only from Tehran, therefore, it could be said that HMG had supported Iraq consistently throughout the whole affair.

Middle East Section,
Research Department.
11 July, 1969.

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REGISTRY No. 10
10 JUL 1969
NEQ 3/324/1

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EN CLAIR

ROUTINE UKMIS NEW YORK TO FOREIGN AND COMMONWEALTH OFFICE
TELEGRAM NO. 1409 17 JULY 1969

UNCLASSIFIED

ADDRESSED TO F.C.O. TELEGRAM NO. 1409 OF 17 JULY REPEATED FOR
INFORMATION TO TEHRAN, BAGHDAD AND SAVING TO JEDDA, KUWAIT,
BAHRAIN RESIDENCY AND WASHINGTON.

SHATT EL ARAB.

THE ACTING PERMANENT REPRESENTATIVE OF IRAQ HAS ADDRESSED
A LETTER DATED 11 JULY TO THE PRESIDENT OF THE SECURITY COUNCIL
EXPRESSING REGRET THAT IRAN PERSISTS IN ITS INTRANSIGENCE AND
"CONTINUES ITS DEMONSTRATIONS OF FORCE IN ACTS OF AGGRESSION IN
SHATT EL ARAB", AND STATING THAT "ON THE PART OF THE GOVERNMENT
OF IRAQ, I AM AUTHORISED TO DECLARE THAT IT IS WILLING AND
PREPARED TO REFER ALL DISPUTES CONCERNING THE APPLICATION OF THE
IRAQI/IRANIAN BOUNDARY TREATY OF 1937 TO THE INTERNATIONAL COURT
OF JUSTICE, AND TO ABIDE BY THE COURT'S DECISION THEREON".

2. A LONG FACTUAL STUDY OF THE PROBLEM IS ATTACHED TO THE LETTER.
F.C.O. PASS BAGHDAD, TEHRAN AND SAVING JEDDA, KUWAIT AND BAHRAIN
RESIDENCY.

MR. HILDYARD

[REPEATED AS REQUESTED]

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18/7

TELEGRAM SECTION
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Communications Department

N. East.

YTC/1

NEU 3/24/11

Copy/ies of the following telegram has/have been sent

TO:

1429 from O.K. 115 N.Y.K.

Shatt-el. Arab dism.

(Signed)

(Department)

(Date)

Action taken in Communications Department:

(Initials) (Date) 18/7

AFTER ACTION THIS FORM SHOULD BE SENT TO
THE APPROPRIATE REGISTRY FOR RETENTION



~~RECEIVED IN
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- 8 AUG 1969~~

With the compliments of

ents of
NEQ 3/324/1

(D. F. Hawley)

BRITISH EMBASSY

BAGHDAD

29 July, 1969

Apr 11/8
Mr Mackinnon
then
leg & ra

Runna 7/8

1969

Mr. [illegible]

Mr. [illegible]

CONFIDENTIAL

H of G

1st Sec.

Shatt-al-Arab

When I saw General Ammash on 25 July (my telegram no. 690) I asked if there had been any progress on the Shatt-al-Arab dispute. He replied that there had not, despite the efforts of the Turks and Jordanians to mediate. The Iranians were still being very rigid and unbending. So far as the Iraqis were concerned they were perfectly willing to enter into negotiations, but the starting point had to be the 1937 Treaty. The Iranians would have to admit the validity of this as a starting point, even though they only did so secretly and did not eat their own words in public.

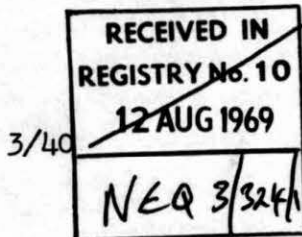
2. Ammash went on to say - with a soldierly glint in his eye - that if the Iranians took any violent action the Iraqis would destroy Abadan. They were ready to do so but would not start a fight first. I expressed the hope that the two neighbours would find a peaceful solution to the problem.

(D. F. Hawley)
29 July 1969

c.c. Mr. J. P. Tripp,
Near Eastern Department,
F.C.O.

Mr. G. D. Wiggin, CMG., DFC., AFC.,
Counsellor,
British Embassy,
Tehran.

CONFIDENTIAL



BRITISH EMBASSY,
TEHRAN.

4 August, 1969

*John's Mr. Maitland to
see then reg.
6 loc. PMH/11/11
14/8
Mr. Maitland*

Dear Peter,

Ref.

*I should comment briefly
on this.*

(17)

Iran, Iraq and the Shatt al-Arab

166
167 I was very glad to have Research Department's note on the Thalweg issue, enclosed with your letter (NEQ.3/324/1) of 11 July, since it gave me an opportunity to have a long general discussion with Manuchehr Fartash, who is still the Political Director-General in the Foreign Ministry detached specifically to handle Iran/Iraq affairs. As what he said is the best general summary of Iranian views we are likely to get at present, I am recording the conversation fully in the present letter.

2. As a preamble, I took Fartash through all the points in the Research Department memorandum and he took copious notes. He seemed to be familiar with most of the cases quoted in the memorandum except those of the Surinam/Guyana frontier and the Burmese/Thai frontier. He showed me an enormous three-volume United Nations document (A/5409 of 15 April, 1963), entitled "Legal Problems Relating to the Utilisation and Use of International Rivers" which is clearly the Bible in which the Iranians are seeking their doctrine. I pointed out that our memorandum was not really helpful to the Iranians, for the reasons given in paragraph 3 of your letter; and that the United Nations' document was probably the same. Fartash agreed but asked for a copy of our memorandum. May I give it to him?

3. Turning to the general issue of Iran/Iraq relations, Fartash then said that there had been no progress and no developments since the failure of the Jordanians' mediatory efforts after King Hussain's visit to Tehran. His story (which corresponds pretty well with what we know from other sources) is that the Jordanians had got as far as getting both sides to agree to a meeting in Amman on 15 June; Fartash had been nominated as the Iranian Representative and the Legal Director-General of the Iraqi Foreign Ministry was to be on the other side. However, he said, in order to avoid a repetition of the abortive Baghdad negotiations last February, the Iranians had deemed it essential to tell the Jordanians that they would only agree to negotiations on the basis that these were for a complete new agreement or else for a working understanding on navigation which would nevertheless supersede the objectionable clauses in the 1937 Treaty. The Iranians had subsequently had an oral communication from the Jordanians that the Iraqis could not agree to a meeting on this basis.

4. Fartash added that political and administrative tension had dropped significantly in the last two months. The flood of Iranian refugees from Iraq had dried up completely and the only problem was that those now in Iran were showing no desire

J. P. Tripp, Esq.,
Near Eastern Department,
F.C.O.

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to go back even though things were much quieter in Iraq. He thought this might be because the summer was more pleasant in Iran, and that when the snows came a lot of them might have second thoughts. Meanwhile, pressure on the Shias in Iraq, though still continuing sporadically and locally, was clearly not being encouraged on a national level. As for the Shatt itself, there was a workable policy of live-and-let-live. Ships going to Basra were flying the Iraqi flag, those going to Abadan/Khorramshahr were flying the Persian flag; the Governor of Basra filed a stream of complaints to the local Iranian authorities about the latter, but really only for the record. Non-Iranian ships were free to use what pilots they wished, and almost all of the pilots were Iraqis.

5. With reference to the foregoing, Gray Mackenzie have told us that the general practice is that foreign ships bound for Khorramshahr and Abadan take on an Iraqi pilot and fly an Iraqi flag on the passage up-stream; they go beyond Abadan and Khorramshahr as though bound for Basra; they then turn round and on entering Iranian waters, before berthing they take on an Iranian pilot and put up the Iranian flag. But when I subsequently quizzed Fartash (without letting on that we had heard different) he insisted that foreign ships going to Abadan/Khorramshahr were flying the Iranian flag from the moment of entering the mouth of the Shatt. We shall try to find out more about this.

the/ 168 6. Turning to general Iran/Iraq relations, Fartash said that he did not foresee a renewal of political tension in the near future, but he would expect the Iraqi Representative at the General Assembly to raise the dispute in his main speech (though certainly not to ask for inscription). On this I warned him that, assuming the Iranians would feel obliged to reply to any Iraqi speech, I was sure there would be considerable irritation in London if they tried to drag the British into the business again. We were quite satisfied that we had done nothing improper at any time; indeed (with a thought to paragraph 1.4 of the memorandum enclosed with Hinchcliffe's letter (NEQ.3/324/1) of 17 July to UKMis New York) there had been occasions when we had encouraged the Iraqis to accept matters in favour of Persians. The point clearly got home, but Fartash added that he thought it might be essential to refer to the Iranian attitude towards "Clause 4" which was a matter of public knowledge. I conceded that this was so, and did not press further.

7. It will have occurred to you, as it has done to me, that by "Clause 4", Fartash was not referring to the complaint of Iraqi non-observance of Articles 4 and 5 of the 1937 Treaty itself, but to Article 4 of the attached Protocol, in the terms of the Iranian statement of 27 April which is incompletely reproduced in paragraph 3 of the Research Department memorandum enclosed with Hinchcliffe's letter under reference. If you agree, therefore, I am inclined to have another go at Fartash during the month of August to remind him that we would much regret a repetition of this statement even though it has already appeared in a United Nations document. On the other hand, I



doubt whether I would get far with the line in paragraphs 5 to 7 of the Research Department memorandum. Though I think Farfash might concede that in 1937 Persia was under no pressure to accept the Treaty (the line which the Ambassador and I have taken in the past), he might well make the comment that everything I said proved the point that the Iraqis had done just what the British wanted of them. So I think the best line would be a straightforward one, that we would regret any revival of references to the British, particularly at a time when we and the Iranians might be moving into the crucial stages of the arrangements for the United Nations Representative to go to Bahrain, which is a practical issue of far greater actual importance both to the Iranians and to U.K./Iranian relations at the present time than an historical discussion of the events of thirty years ago.

Yours ever

Donald

(D. F. Murray)

Cc. to:

P. McKearney, Esq., BAGHDAD.
R. M. Tesh, Esq., C.M.G., CAIRO.
K. M. Wilford, Esq., C.M.G., WASHINGTON.
B. L. Strachan, Esq., AMMAN.
A. D. Parsons, Esq., C.M.G., M.V.O., M.C., UKMIS, NEW YORK.
M. S. Weir, Esq., BAHRAIN RESIDENCY.
E. F. Given, Esq., C.M.G., MOSCOW.
A. H. Campbell, Esq., C.M.G., PARIS.

Near Eastern Department,

18 August, 1969

(NEQ 3/324/1)

Iran, Iraq and the Shatt al Arab

Thank you for your letter 3/40 of 4 August. (171)

2. You may let Fartash have a copy of the Research Department's memorandum, but because of the sensitive nature of the section on the Surinam-Guyana frontier, please first replace this with the redrafted paragraph (enclosed).

3. It seems clear from what you say and from what we have heard from other sources, that the Iranians by insisting on a brand new agreement vice the 1957 Treaty as a basis for negotiations (which is, as they know, unacceptable to the Iraqis) have no intention of entering into meaningful discussions on the Shatt as long as the present Ba'ath regime is in power in Baghdad. Judging from the way that the Ba'athists have dug themselves in, eliminating or neutralising their opponents, the Iranians may have a very long time to wait until a more "reasonable" Iraqi government emerges.

4. I agree that you should seek a suitable opportunity to speak to Fartash on the lines you suggest in paragraph 7 of your letter. I would be inclined to make your points in a relatively minor key. The Iranians should by now be well aware of your views on their allegations about British involvement in the 1957 Treaty - to protest too much may make them feel that we really do have something to be ashamed of after all.

x
K.P.
(J. P. Tripp)

D. F. Murray, Esq.,
British Embassy,
Tehran

c.c. (without enclosure)

P. McKearney, Esq., Baghdad
R.M. Tesh, Esq., C.M.G., Cairo
K.M. Wilford, Esq., C.M.G., Washington
B.L. Strachan, Esq., Amman
A.D. Parsons, Esq., C.M.G., M.V.O., M.C., UKMIS
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E.F. Given, Esq., C.M.G., Moscow
A.H. Campbell, Esq., C.M.G., Paris

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19/8

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DRAFT letter

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To:—

D. F. Murray, Esq.,
Tehran

From

Mr. Tripp
Telephone No. & Ext.

Department

PRIVACY MARKING

.....In Confidence

Iran, Iraq and the Shatt Al Arab

Thank you for your letter (3/40) of 4 August.

2. You may let Fartash have a copy of the Research Department's memorandum, but because of the ~~SENSITIVE~~ ^{SECTION} ~~SECRETIVE~~ nature of the ~~memorandum~~ on the

Surinam-Guyana frontier, please first replace the ~~Paragraph~~ ^{RETURNED FROM RECAPTURED PARAGRAPH -} on this with the ~~attached piece~~ ^{proposed by} South American Department. (*enclosed*)

3. It seems clear from what you say and from what we have heard from other sources, that the Iranians by insisting on a new agreement ^{BLIND} ~~give~~ ^{VICE} the 1937 Treaty as a basis for negotiations, ^(WHICH IS, AS THEY WOULD, UNACCEPTABLE TO THE IRANIS) have no intention of 1 entering into meaningful discussions ~~with the Iraqis~~ on the Shatt as long as the present Baath regime is in power in Baghdad. Judging from the way that the Baathist's have dug themselves in, eliminating or neutralising their opponents, the Iranians may ^{very} have a long time to wait until a more "reasonable" Iraqi government emerges.

4. I agree that you should ~~reach~~ ^{seek} a suitable opportunity to speak to Fartash on the lines you suggest in paragraph 7 of your letter. I would be inclined to make ^{your} ~~further~~ points in a relatively minor key. The Iranians should by now be well aware of your views on their allegations about British

/involvement

NOTHING TO BE WRITTEN IN THIS MARGIN

Mr Tripp

A draft only

to F. 171.

PMH/Humboldt

15/8

involvement in the 1937 Treaty - to protest too
much may make them feel that we really do have
something to be ashamed of after all!

cc (Latter Enclosures)

98
15.8

TO

reunited 7 files

(171)

NOTHING TO BE WRITTEN IN THIS MARGIN

Surinam-Guyana Frontier


The frontier between what is now Guyana (an independent country within the Commonwealth) and Surinam (part of the Kingdom of the Netherlands) was, by an interim arrangement in 1799, defined as the West (Guyanese) bank of the R. Corentyne. But in 1899 the Dutch claimed that because the New River in Guyana was the main supplier of the Corentyne and not the Kutari as had been previously accepted the land between the two rivers - the "New River Triangle" near the common border with Brazil - should belong to Surinam. Although this claim is weak and has never been accepted no legal instrument to define the frontier has ever been signed. A draft Treaty was agreed before the outbreak of the Second World War, and negotiations were resumed in 1948. In 1949 H.M.G. proposed a draft Treaty, almost identical with the draft agreed in 1939, acknowledging the sovereignty of Surinam over the waters of the R. Corentyne and the R. Kutari, guaranteeing freedom of navigation to all merchant shipping and the warships of the High Contracting Parties, and providing for joint maintenance of the channel. From the outset of the negotiations in 1930, recognition of Surinamese sovereignty over the Corentyne was made conditional on the renunciation of her claim to the New River Triangle. Because this claim has not been renounced no agreement between the parties has yet been reached and the entire frontier remains legally undefined.

NEO 3/324/1.

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transferred to NEO 10/19.

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BRITISH EMBASSY

TEHRAN

25 August, 1969.

RECEIVED IN
REGISTRY No. 10

-2 SEP 1969

NEQ 3/324/1

(3/40)

Dear Jones

The Shatt al-Arab

The M.F.A. have just produced a slightly fuller version of the pamphlet on ~~the~~ side of the case in the Shatt dispute which they originally circulated during the CENTO Ministerial meeting in May. You may like to have one copy for your records.

Yours ever

Jon

(J.S. Champion)

D. J. Makinson, Esq.,
Near Eastern Department,
F.C.O.

UNCLASSIFIED



PRÉCISIONS
SUR
LE DIFFÉREND IRANO-IRAKIEN
CONCERNANT
LE
CHATT-EL-ARAB

MINISTÈRE DES AFFAIRES ÉTRANGÈRES

MAI 1969

TÉHÉRAN

ERRATUM

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CHAPITRE I

Circonstances dans lesquelles le Traité de 1937, relatif à la délimitation de la frontière entre l'Iran et l'Irak, a été conclu.

1 - Rappel historique

Au commencement du XVI-ème Siècle, la Dynastie Séfévide réussit à éliminer peu à peu les gouvernements locaux et à combattre la féodalité dans les provinces iraniennes et réinstaura à la tête du pays une autorité centrale, forte et indépendante, sous l'égide de laquelle devait se réaliser plus tard l'unité nationale, religieuse et politique de l'Iran.

Certes, cette reprise en main de la situation ne manqua pas de causer de fortes inquiétudes au gouvernement ottoman qui, à cette époque, avait étendu ses velléités de domination jusqu'aux confins des pays de l'Asie centrale. Aussi, des guerres épisodiques et sanglantes ne tardèrent pas à éclater entre l'Iran et l'Empire ottoman au cours desquelles tantôt quelques provinces iraniennes se trouvaient occupées par les forces adverses et tantôt l'armée Séfévide ou Afshare parvenait à conquérir le territoire de l'Irak et à y pourchasser les forces ottomanes.

En 1837, le gouverneur de Bagdad, Alireza Pacha, dirigea une expédition armée contre la ville de Khorram-

shahr (ex-Mohammereh) et mit cette contrée à sac, après en avoir massacré la population. Cet incident sanglant risquait de mettre le feu aux poudres et de rendre la guerre inévitable entre l'Iran et l'Empire ottoman. Aussi, la Russie et l'Angleterre, usant de leur influence, s'efforcèrent de s'entremettre entre les deux antagonistes et parvinrent finalement à créer, en 1843, une commission à "Erzeroum" en vue d'écarter les dangers d'un conflit armé et de chercher une solution aux différends irano-ottomans. La dite commission était composée de représentants iraniens et ottomans et de ceux de la Russie et de l'Angleterre; ces deux Etats n'y participaient qu'à titre de médiateurs. Les discussions, ayant pour but de résoudre les problèmes frontaliers entre les deux pays, ne durèrent pas moins de quatre ans pour aboutir finalement, le 31 mai 1847, à la signature d'un projet de Traité (dit d'Erzeroum), comportant 9 articles dont les instruments de ratification devaient être échangés par la suite entre les deux parties. Mais le gouvernement iranien s'abstint de ratifier ce traité, demandant à titre d'indemnité la somme de 2,5 millions de tomans pour les destructions et le pillage dont la ville de Khorramshahr avait été l'objet, somme que le gouvernement ottoman refusa de payer.

La Russie et l'Angleterre qui, pour la sauvegarde de leurs intérêts dans cette région, entendaient à tout prix éviter un conflit armé entre les deux adversaires, usèrent, une fois de plus, de leur influence pour faire aboutir la ratification du Traité en question.

En fin de compte, en 1848, le Gouvernement iranien chargea son ministre plénipotentiaire accrédité à Paris, qui se trouvait en route pour Téhéran, de se rendre à Istanbul et d'y procéder à l'échange des instruments de ratification dudit traité. A son arrivée dans cette ville, le ministre fut prié par les représentants anglo-russe de signer, après l'échange des instruments de ratification, une note explicative interprétant certains articles du Traité dans un sens qui ménageait manifestement les intérêts

du Gouvernement ottoman.

Bien entendu, le Gouvernement iranien ignorait totalement le contenu de la note. Mirza Mohammad Ali Khan, de son côté, comptant sur l'influence anglo-russe à la Cour d'Iran de l'époque, n'hésita pas à poser, de son propre chef, sa signature sous ce document.

Une fois mis au courant de l'affaire, le Gouvernement Impérial considéra que son représentant avait outrepassé ses pouvoirs, aussi décréta-t-il l'échange des instruments de ratification ainsi que la note explicative comme nuls et non avenue. Depuis cette date, au cours des séances des commissions, les représentants iraniens n'entendaient point renoncer aux droits de souveraineté de l'Iran sur le Chatt-el-Arab et ils insistaient sur le fait que ce droit devait être conforme aux coutumes consacrées par l'usage et aux règles généralement admises en droit international.

Le gouvernement ottoman continuait à exercer sa pression, et pour amener l'Iran à accepter les dispositions du Traité d'Erzeroum, alla jusqu'à envoyer des troupes armées à Rézaieh (ex-Orumié) et à Khoy ainsi que dans d'autres points d'Azerbaïdjan et établit sa mainmise sur cette région.

Le 21 décembre 1911, un protocole fut signé entre le Ministère iranien des Affaires Etrangères et l'Ambassadeur ottoman à Téhéran dans lequel les deux Parties ont convenu, qu'en vue de résoudre les problèmes frontaliers, une commission composée de représentants des deux pays sera créée et au cas où cette commission n'arriverait pas, au bout de six mois, à une conclusion acceptable pour les deux Parties, le différend serait porté devant la Cour Permanente d'Arbitrage de la Haye.

Il faut souligner que dans ce Protocole, qui a servi de base à celui de 1913 signé à Istanbul ainsi qu'aux procès-verbaux de la délimitation des frontières de 1914, non seulement la moindre allusion n'avait été faite aux

promesses fallacieuses de Mirza Mohammad Ali Khan, mais les termes du Traité d'Erzeroum étaient passés sous silence: on s'était servi seulement de ce Traité comme base des discussions.

En 1912, d'après les dispositions du Protocole de Téhéran, une commission mixte composée de représentants des deux pays fut créée à Istanbul, et quoique dans ce Protocole aucune allusion n'ait été faite à l'Angleterre et à la Russie, qui en 1907 avaient signé un traité entre elles partageant l'Iran en deux zones d'influence, ces deux Etats ne cessaient d'exercer leur pression sur les deux parties. Au cours des réunions de la Commission d'Istanbul les représentants ottomans ne manquèrent pas de faire mention de la note signée par Mirza Mohammad Ali Khan, et la délégation iranienne ne persista pas moins sur la nullité d'un tel document, considérant que Mirza Mohammad Ali-Khan avait outrepassé ses pouvoirs. A la dix-septième séance de la Commission, sous la pression des Etats médiateurs, les représentants iraniens, tout en réaffirmant que Mirza Mohammad Ali Khan n'avait aucun pouvoir pour signer la note explicative, ont annoncé qu'ils accepteraient la note du mois d'avril 1848 que les puissances médiatrices avaient soumise à la Sublime Porte.

Voici le texte des déclarations du représentant iranien:

"A la lecture et à l'examen des documents reçus de Téhéran, et en corroboration de la thèse jusqu'ici défendue par la délégation iranienne, il ressort que Mirza Mohammad Ali Khan, représentant de Sa Majesté le Chahinchah de l'Iran, n'était pas accrédité pour signer la note explicative préparée par les commissaires des Etats médiateurs; cette note n'était d'ailleurs pas insérée dans l'original du Traité."

"Cependant la délégation iranienne, tout en maintenant sa position, mais pour mettre en évidence sa bonne foi, ne considère pas moins la note explicative comme

partie intégrante du Traité d'Erzeroum."

Bien que d'après le Protocole de 1911, il avait été convenu que les discussions se poursuivraient à Istanbul, brusquement, le 21 juillet 1913, un accord portant sur les problèmes frontaliers entre l'Iran et l'Empire ottoman fut signé à Londres entre le Ministre des Affaires Etrangères anglais, Sir Edward Grey, et le représentant ottoman, Ibrahim Haghi Pacha. Quelque temps après, le 4 novembre 1913, un autre protocole fut signé à Istanbul par le grand Vizir ottoman et l'Ambassadeur d'Iran; ce protocole fut contresigné par les ambassadeurs russe et anglais. C'est sur la base de ce même document que les représentants des quatre pays ont procédé, en 1914, à la délimitation des frontières entre l'Iran et l'Empire ottoman.

2- Le Protocole d'Istanbul de 1913 et les Procès-verbaux de délimitation des frontières de 1914 n'ont jamais eu force de loi.

Le Protocole de 1913 d'Istanbul ainsi que celui de délimitation des frontières de 1914 qui avaient concédé, sous pression des Etats colonialistes de l'époque, une partie des eaux et du territoire iraniens à l'Empire ottoman n'ont jamais revêtu un caractère définitif ou légal, de même qu'ils n'ont jamais été ratifiés par les Assemblées législatives des deux pays.

D'après ces protocoles, tout le Chatt-el-Arab, sauf une petite partie se trouvant près de " Mohammereh ", avait été concédé au gouvernement ottoman; il est à noter que ce gouvernement n'avait jamais mis en doute le droit de l'Iran sur les eaux côtières de ce fleuve: le différend soulevé entre les deux pays portait uniquement sur les terres frontalières.

Un fait prouve d'une manière irréfutable l'illégalité du Protocole d'Istanbul.

11

Le Gouvernement turc succédant à l'Empire ottoman proclama qu'on ne pouvait considérer le Protocole de 1913 comme un document politique valable, car il ne remplissait pas les conditions nécessaires lui donnant la forme légale, dans ce sens qu'il n'avait jamais été ratifié par l'Assemblée législative ottomane pas plus qu'il ne l'avait été par le Sultan, chef du pouvoir exécutif. De ce fait, le protocole en question est resté nul et non avenu. De même, du côté iranien, toute modification territoriale ou rectification de frontières devant être effectuées sur l'avis et avec l'approbation du Madjlis, le Protocole de 1913, ne remplissant pas cette condition primordiale, ne pouvait être considéré comme légal ou définitif.

Le médiateur anglais à la Commission de délimitation des frontières de 1913, Sir Arnold Wilson, dans un livre intitulé "la Perse" écrit ceci :

"L'attitude adoptée de tout temps par les gouvernements iranien et ottoman au sujet de la navigation sur le Chatt-el-Arab se définissait ainsi: tout acte de souveraineté exercé sur le fleuve, jusqu'à la limite des zones où les deux rives appartenaient à l'Empire ottoman, se faisait en commun par les deux parties ". Cet avis, exprimé par le représentant britannique, qui faisait partie de la commission de délimitation de la frontière prouve, d'une manière on ne peut plus claire, qu'en aucun moment le droit de souveraineté de l'Iran sur le Chatt-el-Arab n'avait été mis en doute et que les deux pays ont toujours agi quant à ce fleuve conformément aux règles et aux usages admis en droit international.

3- Le différend frontalier après l'indépendance de l'Irak.

Après la fin de la première guerre mondiale, l'Irak qui faisait partie des possessions ottomanes, fut mis, par la Société des Nations, sous tutelle britannique.

Dès le début de cette tutelle les anglais étaient désireux d'octroyer une indépendance factice à l'Irak lui permettant de se faire admettre à la Société des Nations; mais avant de proposer cette candidature, ils voulaient s'assurer que les Etats membres de la S.D.N. n'y feraient aucune objection.

Le Gouvernement Impérial de l'Iran qui venait de retrouver une nouvelle vigueur sous le règne naissant de Reza Chah le Grand et qui voulait rompre avec un passé déplorable, décida d'emblée de ne pas reconnaître officiellement le gouvernement irakien tant que celui-ci n'aurait pas reconnu de son côté les droits de l'Iran sur les régions frontalières et en particulier sur le Chatt-el-Arab, et tant que ce même gouvernement n'aurait pas garanti les droits des ressortissants iraniens résidant en Irak.

Le Gouvernement britannique, protecteur du régime irakien, décida d'enlever tous les obstacles et de donner des garanties au Gouvernement iranien quant à la conclusion d'un traité équitable entre l'Iran et l'Irak au sujet du Chatt-el-Arab. C'est dans cette perspective que le 11 mars 1929 dans une note adressée au Ministère iranien des Affaires Etrangères, le ministre plénipotentiaire anglais accrédité à Téhéran écrivait ceci :

"J'ai reçu des instructions d'après lesquelles je pourrais donner des assurances formelles à Votre Excellence, qu'en cas où votre Gouvernement voudrait reconnaître l'Irak, je pourrais, une fois mis au courant des difficultés auxquelles l'Iran est aux prises sur le Chatt-el-Arab, offrir ma médiation auprès du Gouvernement irakien, afin que le Gouvernement persan, dans la mesure où ses demandes paraîtront raisonnables, puisse obtenir satisfaction."

Après avoir obtenu cette assurance, et une fois que le Gouvernement de l'Irak décida de ne plus causer de tracasseries administratives aux ressortissants iraniens, le Gouvernement Impérial reconnut officiellement l'Irak en 1929 et un ministre plénipotentiaire fut envoyé à Bagdad.

On était en droit de s'attendre à ce que le Gouvernement irakien, après les promesses faites par le plénipotentiaire britannique et les assurances données par le Roi Fayçal, fit un pas en avant pour résoudre le problème du Chatt-el-Arab; mais ce Gouvernement n'accomplit aucun geste dans ce sens et l'affaire tomba dans l'oubli. A la suite de multiples démarches et de rappels réitérés du Gouvernement iranien, il fut enfin décidé qu'une réunion se tiendrait en 1931 à Bassorah, avec la participation des représentants de l'Iran, de l'Angleterre et de l'Irak, afin de trouver une solution acceptable au problème du Chatt-el-Arab. Mais, au fur et à mesure, il devint évident que le Gouvernement irakien n'entendait point tenir ses promesses, et que celles-ci n'étaient données que dans le dessein de faire reconnaître son régime par le Gouvernement Impérial. Celui-ci, en désespoir de cause, s'est vu obligé d'adresser une note au Gouvernement irakien, en lui notifiant l'invalidité du Traité de frontière de 1914. En voici le texte:

N° 3276 - du 10 Azar 1310 (1er décembre 1931)

"La Légation Impériale à Bagdad, se référant à la note du Ministère des Affaires Etrangères de l'Irak, n° 4790, en date du 5 octobre 1931, a l'honneur de déclarer que, ainsi qu'elle a eu, à de nombreuses reprises, l'occasion de le rappeler aux autorités officielles de l'Irak, l'Accord de délimitation des frontières de 1914, conclu entre le Gouvernement Impérial persan et l'ancien Gouvernement ottoman, a provoqué dès le début des objections de la part du Gouvernement Impérial parce qu'il ne réglait pas les litiges se rapportant à la frontière entre la Perse et l'Irak d'une façon conforme aux intérêts de la Perse. Le Gouvernement Impérial ne saurait admettre le dommage qui lui a été causé en raison dudit Accord. En conséquence, le Gouvernement Impérial persan ne considérera à aucun moment l'Accord en question comme officiel et maintiendra ses objections antérieures jusqu'au moment où la question sera discutée entre les deux

Gouvernements et où les litiges en question auront disparu.

La Légation saisit cette occasion, etc."

Mais le nouveau Gouvernement irakien, au lieu de saisir la main de l'amitié que lui tendait le Gouvernement iranien et de chercher une solution équitable conforme aux coutumes et aux normes internationales, fit preuve de réticence dans sa réponse dont voici le texte :

N° 6346 - le 16 décembre 1931

"Le Ministère des Affaires Etrangères présente ses compliments à la Légation Impériale de Perse à Bagdad et, en se référant à sa lettre n° 3276, en date du 2 décembre 1931, a l'honneur de porter à sa connaissance que le Gouvernement de l'Irak ne saurait admettre l'objection formulée par le ministre du Gouvernement Impérial persan et qu'il a envoyé à son Ministre, à Téhéran, des instructions lui enjoignant de demander des explications circonstanciées au Gouvernement central persan."

Une preuve de plus, qui met en évidence la mauvaise foi irakienne, réside dans le fait que le consul d'Irak à Khorramshahr avait reçu un ordre de son Gouvernement lui enjoignant d'écrire une lettre au gouverneur de cette ville pour lui notifier que les forces de l'ordre iraniennes ne devaient plus emprunter le Chatt-el-Arab. Il est évident que cette lettre, tant dans son contenu que dans sa forme, était inadmissible et irrita fort le Gouvernement iranien qui donna immédiatement des instructions formelles à son plénipotentiaire à Bagdad afin qu'il mette le Gouvernement irakien en garde contre le renouvellement de tels procédés inamicaux.

4 - Voyage du Roi Fayçal Ier en Iran

Comme l'Irak n'était pas disposé à résoudre le problème du Chatt-el-Arab, les relations entre ce pays et l'Iran allaient s'envenimant et des heurts se produisaient entre les bateaux des deux pays sur le Chatt-el-Arab ou

entre leurs forces de l'ordre aux abords des frontières terrestres. Le Roi Fayçal, qui était désireux d'en finir avec les différends irano-Irakiens, décida d'effectuer un voyage en Iran et de rencontrer Reza Chah le Grand, dans l'intention de dissiper les divergences entre les deux pays voisins. Ce vœu se réalisa après quelques échanges de télégrammes et le Roi Fayçal arriva en Iran, le 22 avril 1932.

Ce Monarque qui attachait une grande importance à l'amitié avec l'Iran, s'efforça, au cours de ses entretiens avec Reza Chah le Grand, de lui donner des assurances au sujet des bonnes intentions de son Gouvernement en soulignant que celui-ci était prêt à concéder certains privilèges à l'Iran sur le Chatt-el-Arab et à améliorer ainsi les relations entre les deux pays.

Au cours de cette visite, il avait été convenu qu'au printemps suivant le Souverain iranien effectuerait un séjour en Irak au cours duquel les deux Monarques poursuivraient leurs échanges de vues afin d'aboutir à une solution définitive.

Le 8 septembre 1933, le Roi Fayçal décéda à Berne. A la suite de cet événement la visite Impériale à Bagdad ne put avoir lieu et l'éphémère lueur d'espoir qui avait placé, pendant un temps relativement court, les relations irano-irakiennes sous un jour favorable s'éteignit avec le Souverain. Depuis, les autorités responsables de l'Irak ne voulurent pas faire le moindre geste conciliateur en vue de trancher les problèmes litigieux existant entre les deux pays.

Le différend irano-irakien devant la Société des Nations.

Les notes qui s'échangeaient à cette époque entre les deux parties étaient plutôt vives. L'Irak insistait dans ces notes sur le fait que le Traité d'Erzeroum et les Procès-verbaux de délimitation des frontières étaient officiels et que le Chatt-el-Arab faisait partie de l'Irak. Mais l'Iran ne pouvait accepter un traité qui lui avait été

imposé il y avait 100 ans et le considérait comme nul et non avenu. Quant aux Procès-verbaux de 1914, étant donné qu'ils n'avaient jamais été soumis à la ratification des Assemblées législatives irano-ottomanes, pas plus qu'à celle des souverains des deux pays, ils étaient donc dépourvus de valeur légale et devenaient de ce fait inacceptables pour l'Iran. Parallèlement à ces échanges de notes, des incidents de frontière devenaient de plus en plus fréquents entre les deux pays.

Sur ces entrefaites, le Gouvernement irakien, prenant prétexte d'un de ces incidents, déposa une plainte contre l'Iran à la Société des Nations, le 4 décembre 1934, et le même jour une lettre fut adressée par le Ministre irakien des Affaires Etrangères au Ministre plénipotentiaire de l'Iran à Bagdad dont voici la traduction:

N° 2369 — le 4 décembre 1934,

Mon cher Ministre,

J'ai l'honneur de vous remettre ci-joint copie d'une lettre que je viens d'adresser au Secrétaire Général de la Société des Nations au sujet des différends soulevés entre nos deux Etats sur la validité de limitations des frontières de 1914. La dite lettre est rédigée en anglais, l'une des deux langues officielles de la Société des Nations. J'en ai également envoyé un exemplaire au chargé d'affaire d'Irak à Téhéran et lui ai donné les instructions nécessaires, afin qu'au moment où la lettre parviendra au Secrétaire Général de la Société des Nations, il transmette au Ministre Impérial des Affaires Etrangères la copie susmentionnée. La lettre précitée, quoique rédigée sous forme d'une plainte contre le Gouvernement persan, n'est pas dictée par des sentiments inamicaux, bien au contraire : la sincérité envers la Perse constitue le but essentiel de la politique étrangère de l'Irak. Le Gouvernement irakien croit que les causes, qui depuis des années, ont créé un malentendu entre nos deux pays, proviennent d'une divergence de vue à ce sujet. Il est temps que ces

divergences soient dissipées. Je m'attends, une fois cette difficulté résolue, à une nouvelle ère de sincères collaborations entre les deux gouvernements et nations.

Je saisis cette occasion pour vous exprimer l'assurance de toute ma considération.

Noury-Said

La décision de l'Irak de porter plainte contre l'Iran était connue des représentants du Gouvernement Impérial, les autorités anglaises les en avaient informée depuis plusieurs mois. L'Irak basait sa plainte sur l'article 11 de la Charte de la Société des Nations qui est ainsi conçu : « Il est expressément déclaré que toute guerre ou menace de guerre, qu'elle affecte directement ou non l'un des Membres de la Société, intéresse la Société tout entière et que celle-ci doit prendre les mesures propres à sauvegarder efficacement la paix des nations. En pareil cas, le Secrétaire Général convoque immédiatement le Conseil, à la demande de tout Membre de la Société.

Il est, en outre, déclaré que tout Membre de la Société a le droit, à titre amical, d'appeler l'attention de l'Assemblée ou du Conseil sur toute circonstance de nature à affecter les relations internationales et qui menace par suite de troubler la paix ou la bonne entente entre nations, dont la paix dépend ».

Dans sa requête présentée à la Société des Nations le Gouvernement irakien se réfère au Traité d'Erzeroum et au Protocole d'Istanbul de 1913 ainsi qu'aux Procès-verbaux de délimitation des frontières de 1914, lesquels étaient rédigés avec la médiation et l'intervention de la Russie et de l'Angleterre. Le Gouvernement Impérial rédigea une réponse à cette requête où il démontra, arguments à l'appui, le caractère aléatoire des prétentions de l'Irak.

Voici la base de l'argumentation de la délégation iranienne :

" Du point de vue du Gouvernement Impérial, le Traité d'Erzeroum de 1847 ainsi que le Protocole de Constantinople de 1913 et par voie de conséquence les Procès-verbaux de 1914 de la Commission de délimitation des frontières ne sauraient être valables ni sur le plan juridique ni sur le plan de l'équité pour pouvoir fixer les frontières entre l'Iran et l'Irak" .

Pour expliquer ce point de vue, le Gouvernement Impérial, dans sa réponse, faisait en détail l'historique du Traité d'Erzeroum et en déduisait qu'étant donné que le représentant iranien, chargé d'échanger les instruments de ratification de ce Traité, avait outrepassé ses pouvoirs, ledit Traité ne pouvait, de ce fait, avoir force de loi. En ce qui concerne le Protocole de Constantinople, on relevait que celui-ci n'était ratifié ni par les autorités législatives de l'Iran ni par celles du Gouvernement ottoman. En plus, ce Protocole qui avait été signé pour corroborer les clauses du Traité d'Erzeroum, avait en même temps modifié la substance dudit Traité, devenait par conséquent illégal. Aussi, les décisions de la Commission de délimitation des frontières de 1914 ne pouvaient non plus engager le Gouvernement iranien.

En définitive, le Gouvernement iranien concluait que les prétentions de l'Irak, s'appuyant sur des documents sans valeur, étaient infondées et comme il n'existait aucun document valable fixant les frontières entre les deux pays sur le Chatt-el-Arab, cette ligne ne pouvait être que celle reconnue par les principes et les règles du droit international, à savoir le " Thalweg".

La délégation iranienne partit pour Genève où, en vue d'arriver à un accord, les deux parties engagèrent des discussions par l'entremise de quelques Etats membres de la Société des Nations. Mais ces discussions n'aboutirent à rien et, finalement, à la séance du 26 mai 1935, l'affaire fut portée devant le Conseil où chacune des parties exposa son point de vue dont les détails figurent

aux procès-verbaux des séances. Quelques autres représentants émirent également leurs opinions à ce sujet.

Monsieur Litvinoff, représentant du gouvernement soviétique, au moment de la discussion sur le protocole d'Istanbul, dégagea la responsabilité de son gouvernement, affirmant que ce document était signé par les autorités tzaristes. Disons en passant que le Conseil était présidé par le représentant turc.

Voici une partie des déclarations de Monsieur Litvinoff :

"Avant que le Conseil examine à fond le différend dont nous sommes saisis, je tiens à présenter une demande préliminaire d'ordre général.

Dans la documentation soumise au Conseil par les deux parties, ainsi que dans les exposés présentés ici par leurs représentants, la Russie est indiquée comme ayant été partie aux arrangements conclus entre l'Empire ottoman et la Perse, au sujet de leurs frontières. Ce sont là des faits. Le Traité d'Erzeroum et le Protocole de Constantinople portent la signature de représentants du gouvernement russe alors au pouvoir.

Aussi, me vois-je dans l'obligation de déclarer que, quelles que soient les mesures que l'ancien gouvernement impérial de Russie ait jugé bon de prendre en intervenant dans la délimitation de la frontière entre deux Etats, le gouvernement soviétique actuel n'a rien de commun avec la politique ou avec les intérêts qui ont été les mobiles de cette intervention. En conséquence, la solution, quelle qu'elle soit, du conflit entre la Perse et l'Irak, n'intéresse pas le gouvernement soviétique. Il n'y prend d'autre intérêt que celui qu'y prennent les autres membres du Conseil, à savoir que, comme eux, il désire voir le différend réglé avec justice et impartialité à la satisfaction des deux parties, qui pourront ainsi poursuivre leurs relations amicales et de bon voisinage."

Le représentant de la Turquie, Towfik-Roshdi Aras, qui présidait la séance et qui était en quelque sorte le représentant aussi de l'ex-Empire ottoman confirma les déclarations du représentant soviétique en dégageant la responsabilité de son actuel gouvernement dans ces termes.

"Je prendrai d'abord la parole comme représentant de la Turquie, car dans les documents qui ont été cités, figure la signature de l'Empire ottoman et les parties ont fait allusion plusieurs fois à mon pays. A ce fait, je tiens à faire ressortir que je me trouve dans la même situation que Monsieur Litvinoff."

Le baron Aloisi, le représentant italien qui était nommé comme rapporteur du Conseil proposa, qu'étant donné qu'au cours des séances de cette année les deux parties ne parviendraient certainement pas à trouver une solution aux différends qui les partagent, il serait souhaitable de reprendre la suite des discussions au mois de septembre de l'année prochaine. Entre temps, grâce à des pourparlers directs entre les deux parties, peut-être une solution acceptable serait-elle trouvée. Dans cette proposition il avait été recommandé aux deux parties de ne pas procéder à des actes qui puissent compliquer davantage la solution du problème.

Cette proposition fut acceptée de la part de la délégation iranienne. Nouri Said, Ministre irakien des Affaires Etrangères, tout en exprimant ses regrets de l'ajournement de l'affaire, l'accepta également. Monsieur Towfik Roshdi Aras, Ministre des Affaires Etrangères de la Turquie, à l'appui des déclarations du rapporteur et pour exhorter les parties aux pourparlers directs, déclara:

" Nous avons eu des différends de ce genre avec le gouvernement persan; pour les résoudre, je me rendis à Téhéran et grâce à la bonne foi du Gouvernement Impérial et l'attention particulière du Chahinchah, tout fut réglé et aujourd'hui nous entretenons entre nos deux

pays les meilleures relations. Puisse le gouvernement irakien agir de la même manière et trancher le problème par des pourparlers directs".

Le représentant soviétique appuya également ce point de vue. En conclusion le rapport et la proposition du représentant italien furent approuvés à l'unanimité des voix par le Conseil.

6 - Commencement des pourparlers en vue de la conclusion d'un traité de frontière

N'ayant pas trouvé dans la Société des Nations le terrain propice pour faire valoir ses prétentions, Nouri Saïd décida de refaire un voyage en Iran, espérant par là, grâce aux discussions directes avec les autorités iraniennes, trouver une solution aux problèmes litigieux. Il touche un mot de ses intentions à la délégation iranienne à Genève et le gouvernement iranien lui fit savoir que si l'Irak était disposé à ne pas tenir comme base de discussion les Procès verbaux de 1914, le Gouvernement iranien serait d'accord sur le principe de ce voyage.

Cette condition préalable acceptée, Nouri Saïd, accompagné du Ministre de la Justice d'Irak, et du gouverneur anglais de Bassorah ainsi que de quelques autres personnalités, arriva à Téhéran le 5 Août 1935. Durant son séjour, le Ministre irakien réitérait toujours ses anciennes déclarations et il s'en est fallu de peu que son voyage en Iran n'aboutisse à rien. Finalement, le jour de son départ, lorsque il se présenta devant Reza Chah le Grand pour faire ses adieux, il déclara à Sa Majesté que l'Irak était prêt à donner satisfaction au Gouvernement iranien sur les problèmes touchant le Chah-el-Arab, et, afin d'éviter des heurts entre les bateaux des deux pays, il assura le Souverain qu'à proximité d'Abadan, le "Thalweg" serait adopté comme frontière commune. Quoique

cette solution ne ménageât pas entièrement les intérêts de l'Iran, néanmoins, le Gouvernement iranien ne s'opposa pas à cette solution. C'est cet accord qui a servi de base à la conclusion du Traité de frontière de 1937.

Après avoir obtenu ce succès Noury Saïd n'avait plus besoin de poursuivre l'affaire à la Société des Nations. Les Ministres des Affaires Etrangères de l'Iran et de l'Irak adressèrent des lettres au Secrétariat Général de cet organisme lui proposant l'ajournement de l'affaire; cette proposition fut acceptée par la Société des Nations et le 27 août 1937, l'Irak retira sa plainte.

Après le retour de Noury Saïd à Bagdad, il avait été convenu que la suite des discussions portant sur la conclusion d'un nouveau traité frontalier entre les deux pays se déroulerait à Genève. Quelque temps après, des négociations eurent lieu entre les Ministres des Affaires Etrangères des deux pays, à l'issue desquelles ils décidèrent d'envoyer une délégation iranienne en Irak en vue de continuer les pourparlers avec les autorités de ce pays. Cette délégation se rendit à Bagdad mais là il se heurta à de nouvelles difficultés soulevées par Noury Saïd: celui-ci soutenait que les Anglais devaient également prendre part aux discussions, ce qui était inacceptable pour la délégation iranienne. Celle-ci, après avoir attendu vainement pendant quelque temps à Bagdad, fut rappelée à Téhéran en guise de protestation.

A ce moment, certains événements mondiaux, en particulier l'avance des italiens en Ethiopie, causait de vives inquiétudes au Gouvernement britannique qui décida de trouver une solution aux différends frontaliers irano-irakiens et interdit momentanément aux agents britanniques d'intervenir dans les affaires du Chatt-el-Arab. Les représentants du Gouvernement Impérial furent informés de cette décision, mais les Anglais, contrairement à ce qu'ils avaient arrêté, ne tardèrent pas à s'immiscer dans les affaires du Chatt-el-Arab.

Noury Saïd qui était en faveur de la participation anglaise dans l'administration de ce fleuve, rendit public son point de vue. Au cours d'une lettre, portant le no. 1914 du 23 mai 1936, il écrivit au Ministre plénipotentiaire de l'Iran à Bagdad: "La commission s'occupant de la navigation sur le Chatt-el-Arab doit être composée de trois membres et le seul pays qui a des intérêts dans cette affaire, c'est l'Angleterre". Dans cette lettre, contrairement aux engagements pris à Téhéran, il formula des propositions ayant pour but de restreindre les droits de l'Iran sur le Chatt-el-Arab et demanda que le Gouvernement Impérial précisât par écrit son point de vue à ce sujet.

Au moment où le Gouvernement Impérial était en train de préparer une réponse à la lettre de Noury Saïd, le Ministère britannique des Affaires Etrangères et l'ambassade de ce pays à Téhéran s'étaient mis en contact avec le Gouvernement Iranien afin de l'influencer dans le sens d'une réponse favorable à la proposition du Gouvernement irakien.

En juillet 1936, le Chargé d'Affaire britannique à Téhéran, se rendit au Ministère des Affaires Etrangères et annonça que son Gouvernement était disposé à résoudre le différend irano-irakien de la manière suivante:

1 — Devant Abadan une rade d'ancrage sera mise à la disposition de l'Iran suivant les besoins de ce Port.

2 — Le Gouvernement britannique participera aux discussions et à la signature de l'accord concernant l'administration commune du Chatt-el-Arab et aura un représentant à la commission mixte.

3 — Les pouvoirs de la commission seront limités à la réglementation de la navigation sur le fleuve.

La Commission s'occupera du dragage et de l'entretien du Chatt-el-Arab à condition que le Gouvernement iranien mette à sa disposition une partie du fleuve Karoun et tout le cours du Bahmanshir.

La réponse à la lettre du 23 mai 1936 de Noury Saïd fut rédigée au Ministère des Affaires Etrangères et expédiée au ministre plénipotentiaire de l'Iran à Bagdad afin que celui-ci la remette en personne à son destinataire. Il fut recommandé au ministre plénipotentiaire de faire comprendre à Noury Saïd que l'Iran ne renoncerait jamais à ses droits légitimes sur le Chatt-el-Arab, pas plus qu'il ne consentirait à faire participer les Anglais à son administration.

L'Ambassade Impériale de l'Iran à Bagdad suivit les instructions qu'elle avait reçues et adressa une note ainsi conçue au Ministère irakien des Affaires Etrangères:

"Son Excellence Monsieur Noury Saïd,
Ministre des Affaires Etrangères du Gouvernement
Royal de l'Irak.

J'ai bien reçu la lettre N° S. 1914 du 23 juin 1936 que Votre Excellence avait bien voulu m'adresser au sujet des solutions à rechercher pour dissiper nos divergences et j'ai l'honneur de lui communiquer par la présente l'opinion de mon Gouvernement à ce sujet:

A - Le Gouvernement Impérial est extrêmement désireux que les différends frontaliers soient liquidés le plus tôt possible et que l'amitié entre les deux pays soit raffermie sur des bases plus solides. Les déclarations faites par Sa Majesté Impériale le Chahinchah, au cours de l'audience qu'Elle avait bien voulu accorder au Ministre des Affaires Etrangères de l'Irak, au sujet d'une solution à l'amiable des problèmes litigieux, déclarations dont vous donnez d'ailleurs une interprétation erronée dans votre lettre, constituent la meilleure preuve de la bonne foi du Gouvernement iranien. C'est à la suite de cette déclaration qu'en décembre 1935 une mission fut envoyée à Bagdad où elle séjourna jusqu'au 18 avril de l'année courante. Mais malheureusement les négociations n'aboutirent à rien, car le Gouvernement irakien, malgré l'attitude conciliante de l'Iran, ne fit aucun pas vers l'arrange-

ment souhaité. A l'heure actuelle, comme vous avez jugé bon que les Parties exposent leur point de vue sur papier, le Gouvernement Impérial ne s'y oppose pas. Mais je tiens à remarquer que jusqu'à la conclusion d'un accord définitif, comme il a été souligné au cours des négociations et des notes précédentes ainsi que devant le Conseil de la Société des Nations, le Gouvernement Impérial sauvegardera ses droits sans que les discussions ou les échanges de notes actuellement en cours puissent en aucun cas leur porter préjudice.

B - L'esprit dans lequel la Commission mixte pour l'administration du Chatt-el-Arab a été constituée veut qu'aucun des deux Etats voisins n'établisse des règlements contradictoires concernant la navigation sur ce fleuve, et que le dragage et l'entretien soient effectués avec l'accord conjoint des deux Parties, de manière à y assurer la navigation. Néanmoins, afin d'éviter tout ajournement résultant de l'égalité du nombre des représentants de chaque Partie, le Gouvernement Impérial consent à ce que, d'un commun accord, le ressortissant d'un pays tiers soit invité à siéger au sein de la Commission mixte. Cette participation n'engendrera aucun droit pour un Etat tiers quelconque dont l'accord ou la signature ne seraient requis pour l'administration du Chatt-el-Arab. En outre, dans votre lettre vous n'avez fait aucune mention de l'opinion du Gouvernement Royal de l'Irak en ce qui concerne la demande du Gouvernement britannique, vous contentant simplement de l'énoncer. Je serais très heureux d'être informé des intentions du Gouvernement irakien à ce sujet.

C - Dans la deuxième partie de la lettre Votre Excellence divise les travaux de la Commission mixte en deux catégories:

- 1 - Réglementation de la navigation.
- 2 - Dragage et entretien du Chatt-el-Arab.

Dans la deuxième partie, vous avez soumis l'ac-

complissement des tâches de la Commission mixte à deux conditions : d'abord l'octroi des pouvoirs effectifs à la Commission, lui permettant de faire exécuter les décisions prises dans le domaine technique. Ensuite, l'extension des activités de la Commission à quelques miles en amont du Karoun et à l'ensemble du cours de Bahmanshir.

Mon Gouvernement consentirait à accorder à la Commission mixte des pouvoirs basés sur l'égalité des droits des deux Parties en ce qui regarde l'entretien et la réglementation de la navigation sur le Chatt-el-Arab. Il serait disposé également à continuer la négociation sur les détails de l'affaire et à étudier toutes sortes de propositions à ce sujet. Mais en aucun cas mon Gouvernement ne peut accepter que ladite Commission intervienne dans les affaires du Karoun et du Bahmanshir, ces deux cours d'eau coulant à l'intérieur du territoire iranien.

Dans cette même partie de votre lettre, vous faites remarquer qu'au cas où le Gouvernement Impérial ne se prêterait pas à octroyer à la Commission un certain pouvoir concernant ces deux cours d'eau, le Gouvernement Royal d'Irak prendrait intégralement en main l'administration du Chatt-el-Arab.

Je ne saisis pas très bien ce que Votre Excellence entend par cette phrase. Il va de soi que chacun des deux Parties a la possibilité, d'après les droits égaux qui lui sont accordés sur le Chatt-el-Arab, d'accomplir sur ce fleuve des actes n'allant pas à l'encontre des droits de l'autre Partie. Mais comme il a été rappelé dans la première partie du paragraphe B, cette attitude pourrait engendrer des perturbations dans la navigation et l'entretien du fleuve. Il faut souligner par ailleurs que d'après les statistiques établies par le Port de Bassorah, plus de 85% des navires empruntant le Chatt-el-Arab se dirigent vers nos ports, en particulier vers celui d'Abadan. Ceci étant, et en considération des droits légitimes de l'Iran

sur ce fleuve, comment peut-on imaginer que le Gouvernement Impérial se désintéresse des travaux de dragage et de l'entretien de cette voie d'eau?

D - En ce qui concerne l'accord sur le Chatt-el-Arab, le point de vue de mon Gouvernement se résume de la manière suivante. J'ajoute préalablement que dès la réception de l'avis favorable et définitif du Gouvernement Royal de l'Irak à ce sujet, nous serons disposés favorablement à engager des pourparlers relatifs à la délimitation de la frontière. Voici donc le point de vue de mon Gouvernement:

1 - Le Chatt-el-Arab sera ouvert de tout temps à la navigation et à l'arrêt des navires de commerce de tous les pays, sans distinction aucune. Les droits et les taxes de navigation seront perçus proportionnellement aux services rendus et en rapport avec le tonnage des navires sans tenir compte de leur nationalité, ni du genre ou de la quantité de leur cargaison. L'ensemble des taxes ainsi perçues ne doivent pas excéder le maximum des dépenses annuelles, engagées pour l'entretien et l'administration du Chatt-el-Arab.

2 - La réglementation de la navigation et les travaux de dragage et d'entretien seront établis de telle manière que le fleuve reste constamment ouvert à la navigation. Les modalités de la perception des taxes sus-mentionnées seront fixées et exécutées avec l'accord conjoint des deux Parties. Aucun des deux pays riverains ne pourra, sous prétexte qu'une partie du Chatt-el-Arab lui appartient exclusivement, empêcher le déroulement des opérations techniques, engagées pour l'entretien du fleuve, ou d'y perturber la navigation.

3 - Les bâtiments de guerre, ou ceux qui ne sont pas destinés au commerce, appartenant aux deux Etats riverains, peuvent librement et sans acquitter de taxes, emprunter de tout temps le Chatt-el-Arab ou y jeter l'ancre.

4- Les deux pays voisins peuvent exploiter, sur un pied d'égalité, les eaux du Chatt-el-Arab pour la pêche et tout autres buts industriels ou agricoles.

5- En ce qui concerne les dispositions sanitaires, les deux Parties déploieront des efforts conjoints pour assurer la surveillance des côtes, et adopteront des attitudes communes de manière à ce que l'appartenance d'une portion du Chatt-el-Arab à l'une des Parties ne puisse gêner en aucune manière l'exercice des droits et le maintien de la sécurité sur les rives appartenant à l'autre Partie.

Bien entendu, les dispositions précitées ne seront appliquées que dans la partie du Chatt-el-Arab séparant les deux pays l'un de l'autre.

Dans l'attente d'une réponse, je saisis cette occasion pour renouveler l'assurance de ma très haute considération".

7- Signature du Traité de frontière de 1937

Les arguments irréfutables et la résistance ferme du Ministère iranien des Affaires Etrangères n'ont pu amener les Irakiens à reconnaître le droit de souveraineté de l'Iran sur tout le long du Chatt-el-Arab. D'autre part, étant donné qu'il était fortement question à l'époque de la conclusion d'un pacte de non-agression entre les pays de cette région, le Gouvernement turc, à l'instar du Gouvernement britannique, manifestait le désir de voir les différends frontaliers irano-irakiens se résoudre au plus tôt afin de faciliter la conclusion du pacte en question. C'est pourquoi, après d'amples discussions, tant à Téhéran qu'à Bagdad, les deux Parties ont préparé un projet d'accord sur la base du Traité d'Erzeroum et le Protocole d'Istanbul de 1913 ainsi que sur celle des Procès-verbaux de délimitation des frontières de 1914 (qui d'ailleurs n'avait jamais été accepté par le Gouvernement

iranien). Dans ce projet d'accord la souveraineté de l'Iran sur le Chatt-el-Arab n'était pas expressément précisée, pas plus que l'on n'y avait reconnu celle de l'Irak, mais, en ce qui concerne l'administration et la navigation sur le fleuve, les deux pays se trouvèrent sur un pied d'égalité.

Ce projet fut paraphé à Bagdad par le ministre irakien des Affaires Etrangères et le ministre plénipotentiaire de l'Iran. Le 4 juillet 1937, il fut également signé à Téhéran par le Dr. Nadji-ol-Assil, Ministre des Affaires Etrangères de l'Irak et Enayatollah Samii, Ministre des Affaires Etrangères de l'Iran. Quelques jours après, le 8 juillet 1937, un pacte de non-agression dit de "Sadabad" fut conclu entre l'Iran, l'Irak, l'Afghanistan et la Turquie.

Comme on a pu le constater le Gouvernement Impérial a été de tout temps d'avis que le "Thalweg" devait constituer la ligne frontière entre l'Iran et l'Irak sur le Chatt-el-Arab jusqu'à la limite des eaux du Golfe Persique. Ce fait a été relevé depuis un siècle par différentes autorités iraniennes au cours des négociations qui eurent lieu à ce sujet; par ailleurs, l'examen des dispositions du Traité de frontière de 1937 et de son protocole annexe permet de constater que lesdites dispositions ont porté préjudice aux droits et à la souveraineté de l'Iran sur le Chatt-el-Arab. Ce Traité se réfère en outre aux stipulations d'un autre traité conclu en 1930 entre l'Irak et l'Angleterre d'après lequel l'Irak est pratiquement placé sous tutelle britannique. On voit par conséquent, que le Traité de 1937 porte en lui le germe du colonialisme et que l'Iran n'a posé sa signature au bas de ce Traité qu'à contre coeur. Les motifs qui ont poussé l'Iran à agir ainsi, comme nous l'avons rappelé plus haut, se trouvaient dans les conditions exceptionnelles de cette époque. Même dans ces circonstances, l'Iran, animé de bonne volonté, finit par signer le Traité en question et, malgré de graves atteintes portées à ses droits légitimes, entendait exécuter ses dispositions.

Malheureusement, comme les expériences de ces dernières trente deux années l'ont démontré, cette bonne disposition de l'Iran n'était qu'unilatérale et les Irakiens ne voulurent même pas respecter les droits aléatoires que ce Traité avait accordés à notre pays.

La signature du Traité à peine apposée, les autorités irakiennes eurent recours à des manoeuvres dilatoires et s'efforcèrent d'ajourner, autant qu'ils le pouvaient, l'exécution des dispositions du Traité et de son Protocole annexe, persistant à conserver en leur propre main l'administration du Chatt-el-Arab.

CHAPITRE II

Non-exécution par le Gouvernement irakien des principales dispositions du Traité de frontière de 1937 et de l'article 2 de son Protocole annexe.

Manifeste mauvaise volonté de l'Irak depuis 32 ans.

1 - De la conclusion du Traité à l'occupation de l'Iran par les Alliés. La fin de la 2ème guerre mondiale.

Bien que l'Irak ait obtenu des avantages incontestables après la conclusion du Traité de 1937 et quoique l'Iran, sauf sur une petite partie située près d'Abadan, ait renoncé à ses droits naturels et historiques tout le long du Chatt-el-Arab jusqu'au Golfe Persique, néanmoins, à peine le Traité conclu, l'Irak, manifestant sa mauvaise foi, s'abstint d'exécuter les principales dispositions dudit Traité et de son Protocole annexe. On sait que ces documents assuraient à l'Iran la libre navigation sur le Chatt-el-Arab et la participation à son administration.

Après la conclusion du Traité de 1937, le Gouvernement de Hekmat Soleiman fut renversé et un cabinet présidé par Djamilol-Madfaï lui succéda. Le nouveau Gouvernement, Irakien ne se montra guère favorable au Traité de frontière : la cause en était visiblement l'article 5 du Traité et l'article 2 de son Protocole annexe qui menageaient les intérêts de l'Iran en lui accordant expressément la liberté de navigation sur le Chatt-el-Arab et la participation à son administration. Quoique le Gouvernement

irakien ne manifestait pas ouvertement son opposition à l'Iran, mais en sous-main il incitait les journaux, les députés et les groupes politiques à se livrer à des provocations anti-iraniennes. A l'époque, de nombreuses critiques avaient été soulevées dans les deux chambres irakiennes contre le Traité, mais le 6 mars 1938, il fut néanmoins ratifié à une majorité écrasante (81 voix pour, 2 voix contre) à l'Assemblée nationale, et le lendemain à la majorité de 14 voix contre 2 au Sénat irakien. Le Parlement irakien de son côté, le 16 mars 1938, ratifia le Traité et les instruments de ratification en furent échangés à Bagdad, le 20 juin 1938, entre le Ministre irakien des Affaires Etrangères et le Ministre Plénipotentiaire de l'Iran.

Après avoir franchi le processus légal, le Traité de frontière de 1937 entra en vigueur et les Irakiens se livrèrent immédiatement à toutes sortes de manoeuvres pour mettre obstacle au bon fonctionnement de la Commission mixte, chargée de la délimitation des frontières terrestres.

Devant cette attitude, le Gouvernement iranien rappela sa mission, et depuis, malgré les demandes répétées adressées à l'Irak à propos de la reprise des travaux de la Commission, le Gouvernement irakien s'est abstenu de désigner ses représentants. En ce qui concerne l'administration commune du Chah-el-Arab, l'Iran, en vertu de l'article 2 du Protocole, entendait que la question de la délimitation des frontières ainsi que celle de l'administration commune du Chah-el-Arab fussent résolues avant l'expiration d'un délai, fixé à un an; l'Irak n'étant pas animé de la même bonne volonté, cherchait, au contraire, à retarder le plus longtemps possible le dénouement de cette affaire et s'obstinait dans son attitude, en attendant que le délai prévu fût expiré. Saisissant cette occasion, le 12 juin 1938, le Ministère des Affaires Etrangères de l'Irak, par une note no. 4/237/8464, porta à la connaissance de l'Ambassade Impériale à Bagdad ce qui suit:

" Etant donné que le délai mentionné à l'article 2 du Protocole annexe du Traité de frontière, signé le 4 juillet 1937 à Téhéran, expirera sous peu, ce Ministère présume que le Gouvernement Impérial est désireux de proroger le délai en question. Il serait donc souhaitable que ce délai soit prolongé à partir du 20 juin 1939, pour la durée d'un an."

Quoique le Gouvernement Impérial eût souhaité résoudre l'ensemble des différends en vue d'arriver à la conclusion rapide d'un accord portant sur l'administration commune du Chatt-el-Arab, il accepta néanmoins la proposition irakienne.

Il est à souligner que Noury Saïd, le Premier Ministre irakien, au cours d'un discours prononcé en 1939 devant le Sénat de son pays déclara, à propos du Traité de 1937, que, dès le début, il n'avait pas été d'accord avec sa conclusion. Ce discours qui parut dans la presse irakienne, fit beaucoup de bruit et le Ministère Impérial des Affaires Etrangères, au cours des instructions détaillées données à son Ministre Plénipotentiaire à Bagdad, chargea ce dernier de rencontrer Noury Saïd afin de lui demander des explications au sujet de ces propos et de ces manoeuvres. Le Ministre Plénipotentiaire iranien rencontra Noury Saïd, mais n'obtint aucun résultat.

Le déclenchement de la deuxième guerre mondiale et l'occupation de l'Iran par les forces alliées suspendit temporairement les démarches que l'Iran avait entreprises auprès du Gouvernement irakien en vue de l'exécution des stipulations du Traité de frontière de 1937.

2 - Attitude adoptée par l'Irak après la fin de la deuxième guerre mondiale.

Lorsque la deuxième guerre mondiale et les crises qui s'en suivirent eurent pris fin, le Gouvernement Impérial reprit ses démarches auprès du Gouvernement irakien au sujet de l'administration commune du Chatt-el-Arab (objet des articles 3 et 5 du Traité), et dans

une note adressée au mois de juin 1948 à l'Ambassade d'Irak à Téhéran, le Ministère iranien des Affaires Etrangères rappelait qu'en vertu de l'article 2 du Protocole annexe du Traité de 1937, le Gouvernement irakien était tenu de mettre le Gouvernement Impérial au courant des travaux de fonctionnement du Chatt-el-Arab par un rapport semestriel. Or, le Gouvernement irakien n'avait respecté cette disposition que jusqu'au 31 mars 1940, encore que d'une manière non suivie et incomplète.

Voici le texte de la note en question:

"Le Ministère Impérial des Affaires Etrangères présente ses compliments à l'Ambassade Royale d'Irak et a l'honneur d'attirer son attention sur la conclusion d'un accord relatif à la navigation et sur l'envoi de la Commission de délimitation des frontières entre l'Iran et l'Irak, ainsi que sur d'autres problèmes concernant le Chatt-el-Arab, objet des articles 3 et 5 du Traité de frontière de 1937.

Comme Votre Excellence en est informée, le 20 juin 1938, après l'échange de ce Traité entre les deux Parties, une abondante correspondance, ayant pour objet l'exécution des articles 3 et 5, fut échangée entre Elles. Etant donné les circonstances particulières de l'époque, l'exécution de ces deux articles fut reportée à une date opportune. Le moment venu, l'Ambassade Impériale à Bagdad attira à plusieurs reprises l'attention du Ministère des Affaires Etrangères de l'Irak sur l'exécution des articles 3 et 5 du Traité de 1937, celui-ci sembla prêter d'ailleurs une oreille conciliante à cette proposition.

Je me permets de faire remarquer, en terminant, qu'en vertu de l'article 2 du Protocole annexe du Traité de 1937, le Gouvernement Royal d'Irak est tenu de mettre le Gouvernement Impérial au courant des travaux de fonctionnement du Chatt-el-Arab par des communications semestrielles. Or, le Gouvernement Irakien n'a satisfait à

cette obligation que jusqu'au 31 mars 1940, sur les lacunes de laquelle d'ailleurs des correspondances furent échangées entre les deux pays. A ce sujet, le Ministère des Affaires Etrangères s'attend à ce que des démarches appropriées soient entreprises par l'Ambassade Royale d'Irak afin de faire accélérer l'envoi des communications en retard.

Le Ministère Impérial des Affaires Etrangères souhaiterait être mis au courant, dans les plus brefs délais, des démarches que l'Ambassade Royale voudra bien entreprendre.

Entre temps, le Parlement iranien aborda la question du Chatt-el-Arab et M. Matine-Daftari, député de l'Azerbaïdjan, s'enquit auprès du Gouvernement sur les mesures que celui-ci entendait prendre pour la mise en application du Traité de 1837, étant donné que la deuxième guerre mondiale venait de s'achever. Voici le texte de l'interpellation de M. Matine Daftari :

"En vertu du Traité de frontière et de son Protocole annexe, conclu le 4 juillet 1837 entre le Gouvernement Impérial de l'Iran et le Gouvernement Royal de l'Irak, la ligne frontière entre les deux pays étant rectifiée, le droit d'utilisation par les deux Etats du cours du Chatt-el-Arab fut reconnu et il fut stipulé en outre, dans ce Traité, que pour protéger les intérêts communs des deux Parties, en ce qui concerne la navigation sur ce fleuve, un accord serait conclu entre l'Iran et l'Irak au sujet de l'entretien, de l'amélioration de la navigabilité, du dragage, de la signalisation et des relevances parues. Cet accord devait porter également sur les problèmes sanitaires et la répression de la contrebande ainsi que sur l'ensemble des problèmes relatifs à la navigation sur le Chatt-el-Arab. Il avait été arrêté également qu'une commission, composée de représentants des deux pays, se chargerait de l'administration de la navigation sur le fleuve.

Au cours d'un récent voyage dans la Province du Khouzistan, j'ai constaté que l'administration du Chatt-el-

Arab était exclusivement assurée par les agents irakiens et que ces derniers percevaient seuls les redevances qui, d'après le Traité sus-mentionné, devrait être consacrées aux travaux d'entretien et d'amélioration du cours du Chatt-el-Arab. Comme j'ai pu le voir, les fonctionnaires iraniens n'intervenaient en rien dans l'administration du fleuve.

"Depuis le règne des Séfévides, le problème du Chatt-el-Arab a fait l'objet de débats et de discussions entre l'Iran et l'Empire ottoman. Sous le règne de la dynastie des Kadjars, durant lequel les empiètements du gouvernement Ottoman sur le Chatt-el-Arab allèrent en s'intensifiant, les gouvernements russe et britannique se sont immiscés dans cette affaire à titre de médiateurs et ont réussi à faire signer le Traité d'Erzeroum, le Protocole d'Istanbul de 1913 et à créer la Commission de délimitation des frontières. A ce moment, la première guerre mondiale se déclencha et cet événement porta préjudice à l'Iran, en ce sens qu'il mit obstacle à l'exercice de nos droits de souveraineté sur le Chatt-el-Arab.

"Après la liquidation de l'Empire ottoman, survenue à la fin de la guerre, le Gouvernement irakien se substitua à l'Empire disparu et prétendit s'attribuer les avantages du Traité et du Protocole annexe. Mais le Gouvernement Impérial qui, à cette époque, avait repris une nouvelle vigueur et secoué le joug que les puissances étrangères lui avaient imposé au détriment de son indépendance et de son intégrité territoriale, rejeta les prétentions irakiennes et soutint que le Chatt-el-Arab devait être administré par les deux pays riverains et les redevances perçues, consacrées à son entretien.

"Le différend entre les deux Parties fut finalement porté devant la Société des Nations, et après de longues discussions, quelques hommes de bonne volonté irakiens reconnurent le bien-fondé des droits de l'Iran et admirèrent que le fleuve devait être administré en commun par les

autorités des deux pays : cette attitude paraissait normale de la part d'un pays ami et voisin, partageant les mêmes affinités religieuses avec nous. C'est dans cette perspective que le Traité de frontière de 1937 fut conclu entre les deux pays et on se mit d'accord sur la constitution d'une commission mixte qui prendrait en main l'administration du Chatt-el-Arab dont les revenus, provenant de la navigation, seraient consacrés à son entretien.

Après la conclusion du nouveau Traité, le Gouvernement irakien insista, qu'avant sa ratification, une modification y fût apportée par les Assemblées législatives des deux pays, espérant ainsi faire intervenir un Etat tiers dans l'administration du fleuve. Le Gouvernement Impérial rejeta cette proposition, mais le Traité n'en fut pas moins ratifié par les Assemblées des deux pays. D'après les stipulations du Protocole annexe, les deux Parties devaient conclure un accord concernant les détails de l'administration du Chatt-el-Arab un an après la ratification du Traité, et au cas où les efforts déployés par les deux Parties dans ce sens n'auraient abouti, le délai d'un an serait prorogé. En attendant que les Parties eussent conclu un tel accord, il fut convenu que le Gouvernement irakien assurerait temporairement l'administration du fleuve, sous réserve toutefois de tenir le Gouvernement iranien au courant, par une communication semestrielle, des actes accomplis, des redevances perçues ainsi que des dépenses engagées sur le Chatt-el-Arab.

Le Gouvernement irakien ne se soumit à ces obligations que deux ou trois fois. Après les événements de septembre 1941, vu la dégradation de la situation en Iran durant la guerre et la carence du pouvoir qui s'ensuivit, on ne parla plus du traité relatif à l'administration commune du Chatt-el-Arab. En conséquence, notre droit de souveraineté sur ce fleuve qui relie le Karoun à la mer libre, revêtant de ce point de vue une importance vitale pour notre pays, s'en est trouvé atteint. La question de souveraineté mise à part, le Chatt-el-Arab revêt également,

au point de vue financier, une importance considérable, car les bateaux qui empruntent cette voie d'eau acquittent des redevances élevées ."

M. Matine-Daftari, à la fin de son exposé, formula ainsi sa question à l'adresse du Ministre des Affaires Etrangères:

" Bien que la deuxième guerre mondiale ait prit fin depuis deux ans, pour quelles raisons aucune mesure n'a été prise quant à l'exécution du Traité de délimitation de la frontière entre l'Iran et l'Irak ? Si le Ministère a entrepris des démarches dans ce sens, quels en sont les résultats? Je prie Monsieur le Ministre de nous révéler les noms des responsables qui, par leur négligence et leur faute, finiront par faire subir le même sort au Chatt-el-Arab qu'à l'archipel de Bahreïn."

A cette question, M. Noury-Esfandiary, Ministre des Affaires Etrangères à l'époque, répondit dans ces termes:

"Après la conclusion du Traité de délimitation des frontières nous n'avons reçu de la part du Gouvernement irakien que deux rapports relatifs à l'administration du Chatt-el-Arab, rapports qui, d'ailleurs, comportaient des lacunes. A l'époque, le Ministère Impérial des Affaires Etrangères fit quelques déclarations à ce sujet. D'après le Traité de 1937 deux choses devaient se réaliser: d'abord la conclusion, entre les deux Parties, d'un accord relatif à l'administration du fleuve, et ensuite, l'envoi sur place d'une commission de délimitation des frontières. Le Ministère des Affaires Etrangères s'occupe actuellement des deux questions en engageant des pourparlers et en procédant à des échanges de lettres avec l'Ambassade du Gouvernement Royal d'Irak à Téhéran. Nous espérons aboutir le plus tôt possible à la conclusion d'un accord et à l'exécution dudit Traité. L'Ambassade Impériale à Bagdad a reçu des ordres formels afin de poursuivre les pourparlers nécessaires et de déployer tous les efforts pour mener à bonne fin cette affaire".

Le Gouvernement Impérial, en vue d'apporter des indications précises quant à la manière dont il entend administrer conjointement le Chatt-el-Arab avec l'Irak, prépara un projet relatif à l'exécution des dispositions prévues par les articles 4 et 5 du Traité de frontière ainsi que par l'article 2 du Protocole-annexe. Ce projet, joint à la note du 5 avril 1949, fut communiqué au Ministère des Affaires Etrangères de l'Irak par l'Ambassade Impériale à Bagdad dont voici un extrait.

" En vue de l'exécution des dispositions prévues aux articles 4 et 5 du Traité de frontière du 4 juillet 1937, conclu entre l'Iran et l'Irak, et en confirmation de l'article 2 du Protocole-annexe, les deux Parties conviennent des dispositions suivantes :

Article 1— Le Chatt-el-Arab restera ouvert d'une façon égale aux navires de commerce de tous les pays et au passage des bâtiments de guerre et autres navires non affectés au commerce appartenant aux Hautes Parties Contractantes. Les bâtiments de guerre et les navires non affectés au commerce des autres Etats peuvent pénétrer dans le Chatt-el-Arab, munis d'une autorisation écrite délivrée par les Hautes Parties contractantes.

Article 2 — Le Chatt-el-Arab, depuis la mer jusqu'au point où l'Iran et l'Irak se trouvent situés sur les rives, sera placé sous la surveillance de la Commission du fleuve.

Les pouvoirs de la Commission s'étendent jusqu'à la limite des ports; ils ne peuvent s'étaler aux travaux de protection qui s'effectuent sur chacune des rives contre le flux maritime et ne pourront s'appliquer aux débarcadères ou aux quais de chargement ni aux autres bâtiments portuaires existants ou qui seraient construits par la suite.

Article 3 — La Commission du Chatt-el-Arab sera composée de quatre membres, à raison de deux membres désignés par chaque Partie pour une durée de deux ans. La direction de la Commission sera assurée à tour de rôle,

pour une période d'un an, par le représentant de l'une des Parties. Chacune des Parties contractantes pourra à tout moment rappeler l'un de ses représentants et le faire remplacer par un autre.

Les décisions de la Commission seront adoptées à l'unanimité des voix et les représentants de chacune des Parties contractantes auront le droit de vote. La Commission mettra au point les règlements nécessaires et les notifiera aux fins d'exécution. Elle pourra, en cas de nécessité, procéder à la révision desdits règlements.

Article 4 — Le siège de la Commission et celui de l'administration du fleuve seront fixés, après l'accord conjoint des deux Parties, dans la portion du Chatt-el-Arab, placée sous l'autorité de la Commission.

Article 5 — La Commission aura la personnalité juridique. Elle aura son propre pavillon, composé d'une ancre verte placée sur fond blanc, destiné aux bateaux et aux établissements lui appartenant.

Les décisions de la Commission, prises dans la limite des pouvoirs prévus par le présent accord, seront exécutées pour les deux pays.

Article 6 — Dans un délai de deux ans à partir de l'échange des instruments de ratification du présent accord, la Commission du fleuve sera tenue d'adopter des dispositions nécessaires relatives à la navigation et aux travaux de pilotage, à la signalisation, au dragage et à la fixation du montant des redevances. Jusqu'à la mise au point et l'exécution des dispositions susmentionnées, les règlements en vigueur actuellement sur le fleuve resteront applicables.

Article 7 — La Commission mettra sur pied des services administratifs, techniques, financiers..... etc, en vue d'exécuter les obligations découlant du présent accord.

La Commission aura des pouvoirs illimités en ce

qui concerne le recrutement, le renvoi, la fixation du montant des rétributions, l'octroi des primes et autres conditions relatives à l'engagement de son personnel.

Les agents des différents services seront nommés, à nombre égal, parmi les ressortissants des deux Parties.

Article 8 — Le montant des redevances perçues sera fixé d'après le port en lourd enregistré des navires et proportionnellement à leur tirant d'eau. En aucun cas ces redevances ne seront perçues d'après la nature ou la quantité de la cargaison.

La perception des redevances ainsi que l'exécution des dispositions relatives à la navigation et au stationnement des navires, seront appliquées sans distinction de nationalité de ceux-ci.

Il ne sera perçu aucune redevance des navires appartenant aux deux Etats, lorsque lesdits navires seront au service de l'armée, de la douane, de l'administration portuaire, des agents sanitaires, de la police etc. Cependant, si les navires susmentionnés se livrent à des activités commerciales, ils seront tenus de s'acquitter des taxes prévues. Les cargos appartenant aux Parties Contractantes, et jaugeant moins de 150 tonnes, ne paieront aucune redevance. Au cas où leur tonnage excéderait ce chiffre, ils ne s'acquitteront des taxes que sur l'excédent.

Article 9 — Les redevances et les taxes seront calculées en franc-or. Le taux de la conversion du franc-or en autres devises sera fixé par la Commission.

Article 10 — En dehors des redevances mentionnées à l'article 8 du présent accord, les autres sources de revenus de la Commission seront les suivantes :

a — Les sommes provenant des contraventions, des infractions maritimes, précisées par une ordonnance de la Commission d'enquête.

b — Les sommes provenant des services rendus.

Article 11 — Les revenus de la Commission seront destinés aux paiements des différents services, à la rétribution des membres de la Commission, des employés et aussi à l'exécution des engagements découlant du présent accord. Au cas où les revenus seraient supérieurs aux dépenses, ils seront utilisés à l'amélioration de la situation du fleuve et au perfectionnement des moyens de navigation. Les revenus et les biens de la Commission seront exempts de tout impôts.

Article 12 — Au cours du 1-er trimestre de chaque année, la Commission rédigera, à l'intention des Parties Contractantes, un rapport détaillé relatif à son fonctionnement, et présentera un mémoire comportant les comptes détaillés des revenus et des dépenses auquel sera joint le montant des avoirs, de l'actif et du passif de la Commission.

Article 13 — En vertu d'un décret, la Commission sera autorisée à prononcer des condamnations pécuniaires ou disciplinaires, ou toutes les deux à la fois, contre toute personne ayant contrevenu aux dispositions de l'article 6 du présent accord.

Article 14 - Les opérations de surveillance, de signalisation et de dragage, dans la partie du Chatt-el-Arab placée sous l'autorité de la Commission, seront effectuées de manière à ne pas porter préjudice aux droits des deux Parties, et à ceux des riverains, et à ne pas entraver le fonctionnement des ports existant actuellement ou qui seront créés par la suite. Au cas où des dégâts seraient causés, la Commission aura la charge de les dédommager.

Article 15 - Les navires, les édifices, les dépôts et le matériel indispensables à l'exécution des tâches imparties à la Commission, et qui se trouvent actuellement en possession du port de Bassorah, seront transférés à la Commission.

Article 16- Les deux Parties Contractantes conviennent que tout différend provenant de l'exécution ou de l'interprétation du présent accord, au cas où ces différends ne pourraient se résoudre par voies ordinaires ou diplomatiques, sera soumis à l'arbitrage.

Immédiatement après la ratification du présent accord, chacune des Parties contractantes nommera l'un de ses ressortissants à titre d'arbitre.

Quinze jours après la réception d'une demande provenant de l'une des Parties contractantes, les arbitres ainsi désignés procéderont à l'examen de la question litigieuse et émettront leur sentence dans le délai maximum d'un mois et le notifieront aux deux Parties. Au cas où les arbitres ne parviendraient pas à résoudre le problème litigieux dans le délai imparti, un troisième arbitre, ressortissant d'un pays tiers, sera nommé par les deux Parties contractantes. Si l'une des Parties s'abstient de donner son accord dans un délai de 15 jours, quant au choix du troisième arbitre, dans ce cas, celui-ci sera désigné, sur la demande conjointe de l'Iran et de l'Irak, ou de l'un d'eux seulement, par le président de la Cour Internationale de Justice.

La sentence des arbitres est définitive et exécutoire pour les deux Parties.

En dépit de la persévérance de l'Ambassade Impériale, le Gouvernement irakien se garda de répondre au projet qui lui était soumis et bien qu'à l'époque, Abdel-Elah, Prince Héritier et Régent d'Irak, accompagné de son Ministre des Affaires Etrangères, se trouvât en visite officielle en Iran, contrairement à ce que l'on pouvait espérer, aucun résultat ne fut obtenu quant à la mise sur pied de la Commission de l'administration du Chatt-el-Arab. C'est seulement après 15 mois et demi que, par une note du 15/7/1950 portant le no. 15075/4/487, le Ministère des Affaires Etrangères de l'Irak remit une contre-proposition à l'Ambassade

Impériale à Bagdad. Dans ce document, contrairement aux termes du Traité de frontière de 1937, le Gouvernement irakien avait proposé que les attributions de la Commission du Chatt-el-Arab eussent exclusivement un caractère consultatif et ne pussent s'étendre au domaine exécutif. Il devenait patent que par ces tergiversations les dirigeants irakiens visaient à perpétuer leur mainmise sur les revenus du Chatt-el-Arab et à préserver les divers établissements créés à Bassorah, grâce aux fonds provenant de la navigation sur le Chatt-el-Arab.

Le Gouvernement irakien, en s'appropriant unilatéralement l'administration du Chatt-el-Arab, en s'abstenant de présenter des mémoires au sujet des revenus et des dépenses du fleuve, et en ayant recouru à des manœuvres pour retarder la mise sur pied de la commission de l'administration du Chatt-el-Arab et de celle de la délimitation des frontières, a pratiquement ignoré le Traité de 1937. Chose curieuse, ce même gouvernement n'a pas manqué de brandir ce Traité lorsque ses intérêts l'ont réclamé. Pour en citer un exemple, on peut rappeler qu'après la chute du gouvernement Mossadegh, en 1954, lorsque la navigation reprit sur le Chatt-el-Arab, le Gouvernement irakien adressa une note à l'Ambassade Impériale à Bagdad par laquelle il réclamait la somme de 1.920.138 Dinars à titre de redevances, dues par les navires iraniens qui avaient emprunté le Chatt-el-Arab. Non content de cette note, l'Irak ne manqua pas d'en adresser une deuxième à l'Ambassade Impériale en redemandant la prétendue somme, alourdie, cette fois, des peines pécuniaires infligées aux bateaux iraniens qui auraient commis des infractions sur le fleuve. L'Ambassade Impériale donna des réponses appropriées à ces notes en rappelant à l'Irak, une fois de plus, les termes du Traité de 1937.

3 - Pacte de Bagdad

Après l'adhésion de l'Iran au Pacte de Bagdad (1955), il était permis d'espérer que l'Irak, faisant cette fois

preuve de bonne volonté, se montrerait plus conciliant avec son voisin, mais rien ne le laissait présager dans son attitude: l'Irak se cantonnait dans un mutisme déconcertant devant les offres du Gouvernement iranien qui ne demandait que la reprise des pourparlers directs, sans l'intervention de représentants d'un Etat tiers.

Au Conseil des ministres du Pacte de Bagdad qui se réunit à Karachi en 1957, des entretiens se déroulèrent entre le Premier Ministre iranien, Dr. Eghbal et M. Noury Saïd, qui était à l'époque Premier Ministre de l'Irak. Au cours de ces entretiens, les représentants irakiens proposèrent qu'un Suédois fût désigné afin de coopérer, au point de vue technique, avec la Commission de délimitation. L'Iran accepta cette proposition, et par la suite des notes furent échangées entre les deux Parties. L'Ambassade Impériale à Bagdad, adressa une note portant le n° 410 du 19 septembre 1957 au Gouvernement irakien lui exposant en ces termes l'avis définitif de son Gouvernement:

1 - Un arbitre suédois ou, le cas échéant, un autre arbitre désigné par la Cour Internationale de Justice, sera nommé afin de collaborer avec les agents techniques des deux pays, dans les travaux de pose des bornes frontalières.

2 - Dans le mandat que le Gouvernement Impérial et le Gouvernement Royal de l'Irak donneront à cet arbitre, il sera précisé que ses pouvoirs seront exclusivement limités à la délimitation des frontières terrestres et ce, dans le cadre du Traité du 4 juillet 1937, et celui des Protocoles de 1913 et de 1914. En aucun cas les agents techniques des deux pays, ainsi que l'arbitre, ne seront autorisés à aborder ou à se prononcer sur des sujets qui ne sont pas expressément stipulés au Traité de 1937.

3 - Les rémunérations de l'arbitre seront réglées, à part égale, par les Parties Contractantes.

4 - Par une lettre échangée entre les Parties, Elles prendront l'engagement qu'en vue de conclure un accord sur l'administration du Chatt-el-Arab, les Parties constitueront, en même temps que la Commission chargée de la pose des bornes à la frontière terrestre, une Commission mixte, nommée d'un mutuel accord, ayant pour tâche d'élaborer, dans le délai de six mois, un projet pour l'administration commune du Chatt-el-Arab et de le faire adopter par les autorités compétentes des deux pays.

5 - Au cours d'une lettre qui sera échangée entre les deux Parties, Elles prendront expressément l'engagement de considérer comme inséparables les différents problèmes qui font l'objet du Traité de frontière de 1937, des Protocoles de 1913 - 1914 et qui ont trait à l'administration du Chatt-el-Arab. Au cas où les sujets litigieux feraient l'objet d'un arrangement commun, mais qu'un ou plusieurs désaccords subsisteraient à propos du Chatt-el-Arab ou de la frontière terrestre, ces arrangements seront considérés comme nuls et non avenue et les Parties ne pourront s'en prévaloir auprès d'aucune instance.

La note demandait au Gouvernement irakien, en terminant, d'envoyer au plus tôt une délégation à Téhéran, en vue d'élaborer un programme de travail comportant les points mentionnés ci-dessus.

Malgré toutes les promesses prodiguées par Noury Saïd à Karachi, le Ministère irakien des Affaires Etrangères ne continuait pas moins à susciter des obstacles.

Les négociations entre les deux pays furent cependant relancées par une visite que le Roi Fayçal II fit en Iran, au cours de laquelle des pourparlers eurent lieu au sujet des différends en cours. En outre, M. Ardalan, Ministre des Affaires Etrangères de l'Iran, à l'époque, adressa une lettre, portant le no. 6794 du 24 octobre 1957, à M. Momtaz Daftari, sous-secrétaire d'Etat irakien aux Affaires Etrangères, lui demandant de faire confirmer par le Gouvernement de son pays les faits suivants:

1- En vertu des dispositions du Traité de 1937, des pourparlers auront lieu entre les deux Parties, et un accord sera conclu entre Elles quant à l'administration du Chatt-el-Arab.

2- En ce qui concerne les travaux de pose des bornes frontières, le Gouvernement suédois sera prié de présenter un arbitre avec lequel les missions désignées par les deux Parties se rendront aux frontières terrestres pour ériger les bornes.

3- Les accords relatifs au Chatt-el-Arab, et ceux ayant trait aux frontières terrestres, feront l'objet d'un seul arrangement".

Dans une lettre du 28-10-1957, M. Momtaz Daftari confirma les faits ci-dessus et promit d'entreprendre, à la première occasion, des démarches afin de résoudre les problèmes litigieux en cours.

En dépit de toutes les promesses faites par le Roi Fayçal et les membres de sa suite, lors de leur visite à Téhéran, le Ministère irakien des Affaires Etrangères continua à tergiverser. Bien que le Gouvernement suédois ait présenté un arbitre suivant les arrangements convenus, les Irakiens, après quelques mois d'atermoie-ment, ne voulurent point le recevoir. Finalement, devant l'insistance du Gouvernement iranien, le choix d'un arbitre suédois fit l'objet d'un accord entre les deux Parties, et en 1958, le Gouvernement Impérial désigna une mission, chargée de reprendre les pourparlers avec les Irakiens. Apparemment, pour commencer les négociations, il ne restait plus d'obstacle, mais dans cet intervalle, le 14 juillet 1958, une révolution éclata en Irak et un régime républicain prit le pouvoir en main; dès lors on ne parla ni de la Commission ni de la question d'arbitrage.

4 - Les relations entre les deux pays deviennent tendues après la révolution irakienne.

Après les bouleversements survenus en Irak, Abdel Karim Kassem prit le pouvoir et, dès ce jour, il ne pouvait

subsister aucun espoir quant à la reprise des négociations avec les nouveaux dirigeants irakiens, et les relations devenaient de plus en plus tendues entre les deux pays du fait des articles malveillants paraissant dans les journaux ou des propos hostiles propagés sur les ondes; du fait aussi que les ressortissants iraniens en Irak et la navigation sur le Chatt-el-Arab étaient soumis à des difficultés. Le Gouvernement Impérial, chaque fois que l'occasion s'est présentée, n'a pas manqué de rappeler aux dirigeants irakiens l'exécution des dispositions du Traité de 1937.

Le 3 octobre 1958, des pourparlers se déroulèrent entre M. Ali Asghar Hekmat, Ministre des Affaires Etrangères de l'Iran, et son homologue irakien, M. Abdel Djabar Djomrod, au sujet des différends existant entre les deux pays. Le Ministre irakien fit beaucoup de promesses qui, comme tant d'autres, n'ont jamais été tenues.

Vers la fin octobre 1958, le Ministère iranien des Affaires Etrangères adressa une note à l'Ambassade d'Irak à Téhéran dans ces termes:

" Il est regrettable que certains agents du Gouvernement de la République d'Irak, sans aucun respect pour les buts recherchés par les deux pays, aient commis des actes séparés, aggravant les malentendus qui existaient déjà entre notre pays et l'ancien Gouvernement irakien."

Cette note rappelait également :

"Depuis la conclusion des Accords de 1913 et de 1937, bien des années se sont écoulées, et en dépit des engagements officiels pris par l'Irak concernant l'élaboration d'un protocole additionnel et malgré les démarches réitérées du Gouvernement Impérial à ce sujet, non seulement l'ancien Gouvernement irakien n'a pas voulu leur donner suite, mais les actuels dirigeants semblent avoir adopté la même attitude, retardant ainsi la solution d'un problème qui revêt une importance considérable pour nos deux pays."

La note soulignait vers la fin :

"Le Gouvernement Impérial formule une fois de plus le souhait que les divergences qui subsistent depuis longtemps entre nos deux pays soient dissipées au plus tôt. Etant donné que le Gouvernement Impérial ne peut différer plus longtemps la solution d'un problème où ses droits et ses intérêts vitaux sont en jeu, il espère que le Gouvernement de la République d'Irak formera, jusqu'au 6 novembre, une Commission spéciale, chargée de s'occuper des problèmes frontaliers et de ceux du Chatt-el-Arab. Cette Commission, une fois présentée au Gouvernement Impérial, devra se rendre à la frontière où, en présence de l'arbitre choisi d'un commun accord, elle procédera à la délimitation des frontières. En terminant, le Gouvernement Impérial se voit obligé de porter à la connaissance du Gouvernement de la République d'Irak, qu'au cas où celui-ci ne voudrait pas prendre des mesures nécessaires à ce sujet, le Gouvernement Impérial, pour la sauvegarde de ses intérêts, prendrait lui-même des mesures appropriées."

A la suite de cette note, l'Ambassade Impériale à Bagdad adressa, en novembre 1959, un mémorandum au Ministère des Affaires Etrangères de l'Irak, demandant la réouverture des pourparlers au sujet de la délimitation des frontières terrestres par l'intermédiaire de la Commission mixte et l'appel à l'arbitre suédois en cas de divergences entre les représentants des deux Parties. La note demandait également, conformément aux dispositions du Traité de 1937 et des Protocoles de 1913 ainsi qu' à celles des Procès verbaux de 1914, la nomination d'une Commission mixte pour l'administration du Chatt-el-Arab, dans les conditions proposées par le Gouvernement Impérial : "La pose des signaux et les arrangements adoptés pour l'administration du Chatt-el-Arab seront exécutés en même temps que la pose des bornes sur la frontière terrestre, l'ensemble de ces opérations ne constituera qu'un tout inséparable".

Le Ministère irakien des Affaires Etrangères, au moment où le Chargé d'Affaires provisoire de l'Iran lui présentait le mémorandum, déclara à celui-ci qu'en Irak l'opinion publique n'était pas favorable à la réouverture des négociations, et le Ministre se plaignit de ce que le Gouvernement Impérial eût fixé une date ferme pour la présentation de la Commission. Une fois de plus les irakiens trouvèrent là un prétexte pour ne pas exécuter les dispositions du Traité de 1937.

Bien que, dans cet intervalle, des ambassadeurs eussent été échangés entre les deux pays et qu'on s'attendît, à juste titre, à une amélioration des relations entre eux, l'ambiguïté de la politique irakienne et l'instabilité de son régime firent que non seulement l'amélioration souhaitée n'intervint pas, mais les relations devinrent de plus en plus tendues entre les deux pays.

5 - Le Port de Khosrow-Abad et le cas des navires de la Société Irano-Panaméricaine.

En 1937, sur les côtes orientales du Chatt-el-Arab, au lieu dit "Khosrow-Abad," un port pétrolier fut créé par l'Anglo-Iranian Oil Company, comportant toutes les installations nécessaires. Ce port fut utilisé jusqu'en 1951 par les pétroliers qui, à raison de 20 unités par mois, y prenaient leur chargement. Après la nationalisation de l'industrie pétrolière en Iran, le Port de Khosrow-Abad servit de base aux unités de la marine impériale et à celles des gardes douanières.

Au début de 1959, la Société irano-panaméricaine décida, avec l'accord des autorités impériales, d'utiliser ce port comme base pour le matériel de forage, et l'administration des douanes y installa de son côté des bureaux pour ses services. Lorsqu'un premier bateau de la Société irano-panaméricaine, faisant route à destination de Khosrow-Abad, s'engagea dans l'estuaire du Chatt-el-Arab, les autorités irakiennes, sous prétexte que Khosrow-Abad

n'avait pas été reconnu comme un port officiel de l'Iran, se sont abstenues de délivrer à cette unité le permis d'entrée dans le fleuve.

Le Ministère Impérial des Affaires Etrangères, informé de cet incident, chargea son Ambassadeur à Bagdad d'adresser au Ministère irakien des Affaires Etrangères une note ainsi conçue, protestant contre cet acte qui démontrait la mauvaise foi évidente de l'Irak:

No. 328 du 26 mai 1959 .

"L'Ambassade Impériale de l'Iran à Bagdad présente ses compliments au Ministère des Affaires Etrangères de la République de l'Irak et faisant suite aux notes très urgentes a l'honneur de porter à sa connaissance que malheureusement jusqu'ici aucune réponse n'a été donnée à cette Ambassade au sujet de ces notes. D'après les informations qui nous sont parvenues de la part des autorités Impériales sur l'immobilisation des bateaux dans l'embouchure du Chatt-el-Arab, et les dommages considérables qui en résultent, les autorités portuaires de Bassorah, en dépit du caractère urgent de cette affaire, n'ont reçu aucune instruction à ce sujet et elles n'autorisent toujours pas les bateaux à se diriger vers Khosrow-Abad."

"En vertu des accords conclus entre les deux Gouvernements, l'Administration du Port de Bassorah n'a aucune compétence pour statuer dans des questions de ce genre. Par conséquent, le Gouvernement Impérial considère l'attitude adoptée par les autorités irakiennes comme une atteinte aux droits d'autrui, une indifférence envers les engagements internationaux, et estime que cette attitude ne peut que nuire aux relations amicales existant entre nos deux pays. Le Gouvernement Impérial, tout en maintenant ses droits légitimes en cette matière, proteste contre de tels actes.

"L'Ambassade Impériale prie l'honorable Ministère de bien vouloir prendre des mesures urgentes en adressant par télégramme des instructions formelles aux autorités du Port de Bassorah afin que celles-ci autorisent les bateaux immobilisés dans l'embouchure du Chatt-el-Arab à continuer leur route en direction de Khosrow-Abad."

Néanmoins, le Gouvernement irakien se garda de reconnaître officiellement le port de Khosrow-Abad et maintint son refus de délivrer des permis d'entrée aux unités de la Société irano-panaméricaine se dirigeant vers ce port.

En enfreignant les dispositions du Traité conclu entre les deux Parties et en violant les règles du droit international, le Gouvernement irakien cherchait d'une part à consolider la compétence de l'Administration du Port de Bassorah sur le Chatt-el-Arab et, d'autre part, à limiter aux seuls ports de Khorramshahr et d'Abadan le droit de l'Iran à avoir des ports sur ce fleuve.

L'échange des notes de protestation continuait de part et d'autre: l'Irak prétendait que le Chatt-el-Arab lui appartenait et le Gouvernement Impérial, s'appuyant sur les stipulations du Traité de 1937, lui rappelait les points suivants:

"1 - En vertu du Traité de 1937, les deux Parties ont des droits égaux quant à la navigation sur le Chatt-el-Arab. Dans ce Traité, la conclusion d'un accord pour l'administration du fleuve a été prévue. Si la réalisation de tels projets a été retardée par le Gouvernement irakien, ceci n'implique pas que le Gouvernement Impérial abdique de ses droits légitimes.

2 - Etant donné que les deux Parties ont des droits égaux sur le Chatt-el-Arab, la jouissance de ces droits pour chacune d'Elles ne dépend pas de l'autorisation de l'autre Partie.

3 - Les prétentions de l'Irak, basées sur le fait que les quais et les débarcadères de Khosrow-Abad se trouvent

dans les eaux irakiennes, constituent une interprétation unilatérale du Traité frontalier, car, dans ce document, il est expressément stipulé que l'adoption de la ligne du reflux au lieu du "Thalweg" ou la ligne médiane comme frontière commune sur le Chatt-el-Arab, ne doit pas empêcher l'Iran d'exercer ses droits sur l'ensemble du fleuve.

4 - La construction des établissements portuaires, des quais et des débarcadères constitue une corollaire indispensable pour l'utilisation, du Chatt-el-Arab sur un pied d'égalité avec l'Irak, à des fins de navigation : ce droit est d'ailleurs conforme aux règles du droit international.

5 - Dans aucune clause du Traité, le droit exclusif de construire des installations portuaires sur les rives du Chatt-el-Arab n'a été accordé à l'Irak, pas plus qu'il n'a été défendu à l'Iran d'y créer des installations analogues.

Les autorités irakiennes firent la sourde oreille aux arguments, pourtant irréprochables, du Gouvernement iranien, lequel se vit obligé de faire escorter les navires de la Société irano-panaméricaine par des unités de la marine impériale. Ainsi l'Irak ne parvint pas à empêcher les autorités iraniennes d'utiliser le port de Khosrow-Abad comme elles le faisaient depuis de longues années. On ne sut jamais d'ailleurs sur quelles bases les prétentions irakiennes étaient fondées. Le comportement, pour le moins qu'on puisse dire, inamical des agents irakiens n'est, en cherchant bien, que le reflet d'une mauvaise volonté évidente des Gouvernements successifs de l'Irak envers le Traité de frontière de 1937 : il en était ainsi sous le règne des Hachémites et il en est de même, hélas, sous le nouveau régime irakien.

6 - Administration du Port d'Abadan

Bien que, d'après le Traité de 1937, l'Iran et l'Irak eussent les mêmes prérogatives en ce qui concerne l'administration du Chatt-el-Arab, les Irakiens pourtant se

réservaient exclusivement toutes les opérations d'accostage ou d'appareillage des navires dans tous les ports du Chatt-el-Arab; il en était de même pour les bateaux entrant dans les eaux ou les ports iraniens. En 1960, le Gouvernement Impérial se pencha sur la question et décida, par un décret adopté au Conseil des Ministres, de prendre en main aussi bien l'administration de l'ensemble des ports, y compris celle d'Abadan, que les travaux de navigation. Etant donné qu'à cette époque les relations entre les deux pays semblaient s'améliorer, il a été décidé que cette mesure fût appliquée avec tous les ménagements possibles afin de ne pas froisser le voisin irakien. Aussi, entre l'Ambassade Impériale et le Gouvernement irakien d'une part, et le Directeur général des Ports d'Iran et celui du Port de Bassorah d'autre part, des pourparlers eurent lieu respectivement à Bagdad et à Bassorah, mais l'Irak, prétendant qu'entre le Port de Bassorah et le Consortium des pétroles un arrangement particulier existait à ce sujet, ne voulut point donner son accord. En conséquence, le Gouvernement Impérial décida qu'à partir du mois d'août 1960, toutes les opérations portuaires d'Abadan seraient désormais effectuées par l'Administration Générale des ports iraniens, laquelle administration informa toutes les agences maritimes à Khorramshahr qu'à partir du 27 août 1960 elles étaient tenues de faire appel aux agents portuaires de l'Iran. Le Consortium, de son côté, en avertit les autorités portuaires de Bassorah, lesquelles publièrent immédiatement un communiqué mettant en garde toutes les compagnies de navigation contre d'éventuelles poursuites légales. Par ailleurs, le Ministre irakien des Affaires Etrangères pria l'Ambassade Impériale à Bagdad de faire ajourner l'exécution de cette décision par son Gouvernement.

En octobre 1960, l'Ambassade Impériale à Bagdad adressa une note au Gouvernement irakien dont voici quelques extraits:

" . . . Comme les autorités de l'honorable Ministère

en étaient informées, l'Administration générale des ports de l'Iran avait l'intention de prendre en main, dès le 27 août 1960, l'administration du Port d'Abadan, administration qui, sans l'accord du Gouvernement Impérial, était assurée jusqu'ici par les agents du Port de Bassorah. Mais, sur la demande du Gouvernement irakien et eu égard aux relations amicales existant entre les deux pays, le Gouvernement iranien consentit à ajourner temporairement l'exécution des décisions prises. Pendant ce temps il semble que le Gouvernement irakien a eu suffisamment de temps pour étudier ce problème, et qu'à l'heure actuelle il ne subsiste plus aucun prétexte pour différer l'exécution de cette décision.

Bien que ce problème soit strictement d'ordre intérieur et relève du droit de souveraineté de l'Iran, et de ce fait, n'exige aucune négociation préalable avec le Gouvernement de la République d'Irak, le Gouvernement Impérial, dans l'unique souci du maintien des bonnes relations avec la République d'Irak, a consenti un délai pour l'exécution de cette décision. Le Gouvernement Impérial proclame que l'Administration des ports de l'Iran, y compris celle d'Abadan, sera désormais assurée par ses propres agents, et la date exacte de la mise en application de cette décision sera fixée prochainement. Nous comptons fermement sur la collaboration des agents portuaires de Bassorah."

En réponse à cette note, le Gouvernement irakien eut recours à différents prétextes, il avança entre autres que les divergences de vues existant actuellement entre les deux pays provenaient des différends plus anciens. L'Ambassade Impériale rejeta les déclarations du Ministère des Affaires Etrangères de l'Irak et réaffirma dans une note que "la question de l'administration du Port d'Abadan n'avait aucun rapport avec celle du Chatt-el-Arab, et que le Gouvernement Impérial était bien résolu à prendre en main l'administration de ce port, tout comme celle de Khorramshahr.

La note ajoutait : "L'Ambassade estime que lorsque l'honorable Ministère se réfère à l'article 5 du Traité de 1937 et à l'article 2 du Protocole-annexe, il ne tient pas compte du fait que le Gouvernement Impérial n'a pas manqué d'attirer à plusieurs reprises l'attention du Gouvernement irakien sur l'inobservation par celui-ci de ces mêmes articles et les engagements qui en découlent. Le Gouvernement Impérial souhaite que des négociations reprennent prochainement entre les deux pays pour résoudre les problèmes litigieux, par conséquent il se garde de rentrer plus à fond dans les détails de ces problèmes".

Conformément aux instructions reçues, l'Ambassadeur d'Iran continuait ses pourparlers avec le Ministère irakien des Affaires Etrangères en faisant remarquer que le Gouvernement Impérial assurait dans le passé par ses propres agents l'administration du port d'Abadan et que par ailleurs, cette question relevait exclusivement du droit de souveraineté de l'Iran. D'autre part, le Consortium et l'Administration du Port de Bassorah n'avaient juridiquement aucune compétence pour engager des négociations ni se concerter sur un sujet lié strictement aux affaires d'un autre pays surtout lorsque le sujet rentre dans le domaine de la souveraineté de ce pays. Ce qui fait l'objet de nos discussions actuelles n'a rien à voir avec les dispositions du Traité de 1937.

Devant tous ces arguments les Irakiens persistaient dans leur entêtement et le Gouvernement Impérial, de guerre lasse, décida qu'à partir de 1961, il assurerait par ses propres agents l'administration du Port d'Abadan. Mais cette fois encore les autorités du Port de Bassorah se gardèrent bien de mettre des pilotes à la disposition des navires empruntant le Chatt-el-Arab et, bien que le Consortium soutînt le point de vue de l'Iran et donnât des assurances au sujet de la compétence des agents iraniens, les autorités du Port de Bassorah restèrent sur leur position.

Cette attitude ne manqua pas d'arrêter le trafic du port d'Abadan et de mettre un frein à l'exportation du pétrole iranien. En dépit des efforts déployés par l'Ambassadeur d'Iran auprès d'Abdel Karim Kassem et du Gouvernement irakien pour attirer leur attention sur la gravité du problème et sur les droits intangibles de l'Iran, les dirigeants irakiens ne voulurent rien entendre. Cette manière d'agir, qui était contraire aux termes du Traité de frontière de 1937, causa à l'Iran des dommages considérables montant à 30 millions de dollars. En désespoir de cause, l'autorisation fut donnée aux agents irakiens de guider les bateaux, comme dans le passé, sur le Chatt-el-Arab, en attendant que, selon les promesses faites par le Gouvernement irakien, l'ensemble des différends frontaliers fussent résolus globalement.

Chapitre III

Désignation du Thalweg comme ligne frontière entre l'Iran et l'Irak sur le Chatt-el-Arab

1 - Déclarations Impériales

En dépit des protestations et de nombreuses observations de l'Ambassade Impériale à Bagdad, et malgré les efforts tentés pour amener les Irakiens à plus de modération, ces derniers n'en continuaient pas moins à multiplier les difficultés aussi bien sur le Chatt-el-Arab qu'aux abords des frontières terrestres.

En novembre 1959, au cours d'une conférence de presse, le Chahinchah, en réponse au directeur de la Revue "Khouchéh", déclarait:

"Nous avons conclu dans le passé des accords relatifs au Chatt-el-Arab, mais ces accords n'ont jamais été respectés par le Gouvernement de l'Irak. Nous avons proposé à différentes reprises d'entamer des négociations à ce sujet, malheureusement aucune suite ne leur a été donnée. Il est tout à fait normal qu'au XX^{ème} Siècle, un fleuve coulant entre deux pays, ne puisse être exploité unilatéralement par l'un d'entre eux, ou soumis à son autorité exclusive. Comment peut-on imaginer que l'Iran renonce à un droit qui est reconnu de nos jours par tous les pays du monde. Nous ne pouvons admettre, d'aucune façon, la politique colonialiste adoptée par l'Irak en cette matière, mais nous n'espérons pas moins que son gouvernement, saisissant la main de l'amitié que nous lui tendons, voudra bien, comme nous

l'avons rappelé à plusieurs reprises, rentrer dans la voie de la réconciliation. L'Irak doit non seulement mettre fin aux divergences qui ont existées entre nos deux pays dans le passé, mais faire en sorte que de meilleures relations de bon voisinage s'établissent entre eux. Nous ne demandons que le bonheur et l'indépendance pour l'Irak; animés comme nous le sommes, de tels sentiments, il serait regrettable que le Gouvernement irakien repousse notre geste de bonne volonté."

2 - Déclarations du général Abdel Karim Kassem

En dépit des déclarations conciliantes de Sa Majesté Impériale le Chahinchah, et malgré les assurances données par le Souverain sur la consolidation des relations amicales entre les deux pays, le Gouvernement irakien s'obstinait non seulement dans son attitude inamicale, mais se livrait, par l'intermédiaire de la radio, de la presse et de ses autorités officielles, à une campagne qui était, pour le moins qu'on puisse dire, aussi inattendue qu'irraisonnable.

Le 2 décembre 1959, pour donner le ton à cette campagne, le Général Abdel Karim Kassem, au cours d'une conférence de presse consacrée aux relations entre l'Iran et l'Irak, fit les déclarations suivantes.

"Le Traité de 1937 fut imposé à l'Irak et c'est contraint et forcé que ce pays fut amené à céder cinq kilomètres du Chatt-el-Arab à l'Iran. Ceci constituait un don et ne pouvait être considéré comme un droit acquis. Cette cession fut faite afin de permettre aux sociétés pétrolières de se dérober aux paiements des redevances à l'Irak. A cette époque l'Irak se trouvait dans une situation critique et c'est sous la contrainte qu'il céda cinq kilomètres du cours du Chatt-el-Arab à l'Iran, quoique ce pays n'y eut aucun droit : par ce geste l'Irak espérait résoudre les problèmes frontaliers. Mais jusqu'ici, ces problèmes, comme tant d'autres, n'ont trouvé

aucune solution, et si cette situation continue, nous remettrons en question les cinq kilomètres cédés à l'Iran: nous les rattacherons à la mère patrie."

3 - Déclarations du Ministre des Affaires Etrangères de l'Iran au Madjlis

Les déclarations du général Abdel Karim Kassem, inspirées par les sentiments inamicaux du Gouvernement irakien à l'égard de l'Iran, causa une vive réaction parmi les milieux politiques, dans la presse, ainsi qu' aux deux Assemblées iraniennes. Les autorités de ce pays se rendirent compte qu'il était inutile d'insister davantage auprès du Gouvernement irakien au sujet de l'exécution du Traité de frontière de 1937 et, étant donné que ce Gouvernement avait pratiquement violé et considéré comme nul et non avenu les dispositions du Traité de 1937, il ne restait plus au Gouvernement iranien qu'à se dégager de ces mêmes dispositions.

A ce propos, le Ministre des Affaires Etrangères de l'Iran, Monsieur Abbas Aram, prononça un important discours au Madjlis en décembre 1959. Après avoir tracé l'historique des différends entre les deux pays et fait allusion à l'attitude inamicale de l'Irak après la conclusion du Traité de 1937 le Ministre déclarait:

" que ce traité n'assurait pas à l'Iran ses intérêts et tous ses droits légitimes". Néanmoins, le droit de l'Iran d'utiliser et d'administrer le Chatt-el-Arab sur un pied d'égalité avec l'Irak y est expressément reconnu et le Gouvernement Impérial n'a pas manqué de demander instamment aux Gouvernements successifs de l'Irak l'élaboration d'un projet exécutif concernant le Traité de frontière. Mais les Gouvernements irakiens de l'époque, sous des prétextes plus ou moins valables, se sont soustraits à cette offre et n'ont jamais voulu tenir les différentes promesses qu'ils ont faites au sujet de l'envoi d'une délégation en Iran en vue d'entamer des négociations à ce sujet. Par cette obstination, les Irakiens ont cherché à se

réserver, d'une manière illégale, l'administration du Chatt-el-Arab, et à s'approprier des revenus qui, d'après les termes précis du Traité devaient être utilisés exclusivement, avec l'accord conjoint des deux Parties, à l'entretien et à la navigabilité du Chatt el-Arab. Les Irakiens ont employé la majeure partie de cette somme à des fins qui n'ont rien à voir avec la navigation sur le fleuve. L'Iran est en droit de prétendre, à juste titre, qu'étant donné qu'il assure à lui seul plus de 75% des revenus perçus sur le Chatt-el-Arab, il devrait, dans la même proportion, participer à son administration. Cependant, en face d'une question qui revêt une importance vitale pour lui, l'Iran a suivi scrupuleusement les dispositions du Traité de frontière et les engagements pris vis à vis de l'Irak, il s'est contenté d'exercer ses droits et prérogatives sur le Chatt-el-Arab, au même titre que l'Irak, en confiant l'administration du fleuve à une commission mixte irano-irakienne.

Malgré la manifestation de tant de bonne volonté de notre part, non seulement le Gouvernement irakien n'a pas voulu respecter les droits incontestables de l'Iran, mais, depuis la prise du pouvoir par le régime actuel, de nouveaux obstacles sont dressés devant nous dans le Chatt-el-Arab. Monsieur Abbas Aram ajouta: " La patience de l'Iran a une limite. La persistance de l'Irak dans son attitude nous obligera à reviser notre position en prenant des mesures appropriées pour la sauvegarde de nos droits et de nos intérêts. Le comportement du Gouvernement irakien, depuis la conclusion du Traité jusqu'à ce jour, dénote l'indifférence de ce pays en face des engagements internationaux et une intention bien arrêtée d'enfreindre les dispositions du Traité en question. En outre, d'après les principes du droit international, sur un cours d'eau coulant entre deux pays, la frontière se détermine ou bien suivant la ligne médiane ou bien selon le "Thalweg", : on n'a jamais vu le cas qu'un fleuve navigable, de l'importance du Chatt-el-Arab, coulant entre deux pays,

soit utilisé uniquement par l'un d'entre eux.

Monsieur Aram dit en concluant:

"Je déclare de la façon la plus nette que le Gouvernement Impérial, comme il l'a rappelé à maintes reprises, est plus que jamais résolu à maintenir ses droits sur le Chatt-el-Arab. En plus, l'Iran est décidé à réclamer instamment les sommes qui lui sont dues et, en vue de faire prévaloir ses droits, il est résolu à prendre toutes les mesures qui s'imposent et à ne plus permettre d'empiètements sur les droits sacrés du peuple iranien. Je le répète encore une fois, car je le crois nécessaire, que le Gouvernement iranien, ne reconnaît aucun autre critère que le Thalweg pour la délimitation de la frontière sur le Chatt-et-Arab : ceci conformément à ses droits et aux principes du droit international."

Chapitre IV

L'annonce de la non validité du Traité de frontière de 1937.

En 1961, des pourparlers eurent lieu à Bagdad entre l'Ambassade Impériale et le Ministère des Affaires Etrangères de l'Irak au sujet des différends qui subsistaient depuis quelque temps entre les deux pays. Ces pourparlers devaient aboutir en principe à la conclusion d'un accord qui aurait été ratifié plus tard par les autorités législatives des deux pays. Etant donné qu'à cette époque le Madjlis était en congé, d'après les lois constitutionnelles de l'Iran la conclusion d'un accord de ce genre s'avérait impossible. En outre, le climat général dans le pays ne s'y prêtant pas, le Ministère Impérial des Affaires Etrangères, au cours d'une note adressée en mai 1961 à l'Ambassade d'Irak à Téhéran, rappelait: "Vu les événements et les circonstances, l'exécution de nos projets sera ajournée. Dès que les circonstances le permettront, nous porterons les faits à la connaissance de l'Ambassade". Malheureusement les relations entre les

deux pays et l'attitude des autorités irakiennes étaient telles qu'à aucun moment les circonstances ne se montrèrent favorables à la reprise des négociations.

En février 1964, Sobhi Abdel Hamid, Ministre irakien des Affaires Etrangères du Gouvernement Baasiste de Hassan-el-Bakr, accompagné du Ministre de l'Unité Arabe et de quelques hauts fonctionnaires du Ministère des Affaires Etrangères de l'Irak, se rendirent en Iran, en vue de régler les problèmes en suspens entre les deux pays. A l'issue de ces entretiens, des promesses furent prodiguées par les Irakiens, mais aucune, comme à l'accoutumé, ne fut tenue.

Au cours de l'année 1965 où la guerre entre les Kurdes et le gouvernement central de l'Irak gagna en intensité, les forces aériennes et terrestres de ce pays ont fréquemment violé la frontière de l'Iran, et au cours de l'une de ces violations deux officiers iraniens ont trouvé la mort. En outre, l'attitude inamicale et les tergiversations des autorités irakiennes n'ont pas manqué d'agiter l'opinion publique en Iran: les députés et les journaux iraniens portaient de sévères critiques contre Irak et demandaient au Gouvernement qu'un terme soit mis aux agressions et aux violations perpétrées contre notre pays. C'est dans ce but que M. Aram, Ministre des Affaires Etrangères, prononça un discours devant le Sénat où il proclama une fois de plus qu'étant donné que les Irakiens avaient violé par leur attitude le Traité de 1937, le Gouvernement Impérial de son côté le considérait comme inexistant.

1 - Déclarations du Ministre iranien des Affaires Etrangères devant le Sénat (Décembre 1965)

Voici quelques extraits du discours de Mr. Abbas Aram.
"..... S'inspirant des intentions pacifiques de Sa Majesté le Chahinchah Aryamehr, et vu les affinités séculaires qui nous lient à l'Irak et à son peuple, le

Gouvernement Impérial s'est constamment efforcé de résoudre par des moyens pacifiques les différends résultant de ces événements regrettables et il n'a pas manqué de mettre en garde les dirigeants irakiens contre les suites graves qu'ils pourraient comporter. Mais toutes les démarches tentées par la voie diplomatique en vue d'essayer de mettre fin, une fois pour toute, à ce genre d'incidents n'ont eu aucun effet. Que pouvait-on conclure de l'attitude irakienne? Ou bien son Gouvernement était hors d'état de mettre un terme à ces regrettables aventures ou bien il n'en avait pas le pouvoir. L'Irak doit se rendre compte que le Gouvernement Impérial ne peut attendre indéfiniment; la longanimité et la patience ont des limites qui ne peuvent être maintenues lorsque les choses atteignent des extrémités inextricables. Si le Gouvernement Impérial a adopté jusqu'ici une attitude conciliante, permettez-moi, de vous en rappeler les raisons; ainsi Mesdames et Messieurs les Sénateurs connaîtront les motifs qui nous ont poussé à ménager l'Irak et à lui conserver notre amitié :

"Nous avons plus de 1200 Km. de frontière commune avec notre voisin irakien. Dans la région située à l'est de l'Euphrate les vestiges de la civilisation iraniennes sont parfaitement perceptibles. Les deux peuples sont musulmans. Des Lieux Saints, où la plupart des descendants du Prophète ont leurs sépultures, se trouvent en Irak. D'innombrables traces, témoins vivants de la grandeur, de l'art, de l'industrie et du génie de notre pays sont encore visibles dans ce pays. Non seulement dans le passé, mais encore de nos jours, nos compatriotes ne ménagent point leurs peines ni leur argent pour le développement économique de l'Irak, pour l'embellissement des mosquées, des mausolées et pour l'enrichissement des ornements sépulcraux des célèbres Tombeaux. Tous les ans, des centaines de milliers d'Iraniens se rendent en pèlerinage aux Lieux Saints des chiïtes, et l'Irak en tire de substantiels avantages économiques. Des centaines de milliers

de nos compatriotes, se vouant aux saints Martyrs, choisissent l'Irak pour leur résidence définitive où ils se consacrent corps et âme à l'oeuvre de l'épanouissement économique de ce pays. En Irak, là où l'on voit un dôme, une mosquée, une école ou un somptueux édifice, on y voit en même temps l'empreinte du génie iranien. Sans le concours de nos compatriotes pour la mise sur pied de la civilisation Abbasside ou encore, vers 1920, sans le dévouement des ulémas et des combattants iraniens dans la voie de l'accession à l'indépendance de l'Irak, ce pays ne pourrait, de nos jours, s'enorgueillir de son passé. Je n'ai fait allusion à ces faits qu'à titre de mémoires: Messieurs les Sénateurs eux-mêmes en savent assez long; mais ce que je peux dire c'est que, notre voisin a préféré la discorde à l'entente. Ce pays ne peut cependant nier un fait: si l'Irak avait pour voisin un pays moins bienveillant mais aussi puissant que le nôtre, il pouvait difficilement sauvegarder son indépendance.

"Dans les déclarations faites par les autorités officielles irakiennes, on peut discerner de temps en temps la volonté d'un rapprochement sincère avec l'Iran, mais ces mêmes autorités tiennent dans d'autres circonstances certains propos ou commettent certains actes qui contredisent ces manifestations de bonne volonté, et il va de soi que devant une telle attitude, les efforts du Gouvernement Impérial, qui désire renouer fraternellement avec l'Irak, restent sans effet. Je n'ai pas l'intention d'évoquer devant cette honorable Assemblée les déclarations empreintes de provocations des autorités officielles de l'Irak: Messieurs les Sénateurs en sont amplement informés. Mais je peux, non sans un certain orgueil, répéter à cette tribune que l'Iran, s'inspirant de la politique éclairée et pacifique adoptée par Sa Majesté Impériale le Chahinchah Aryamehr, ne souhaite que l'indépendance et la prospérité pour le peuple irakien. Nous tenons au même degré au

respect de nos engagements envers l'Irak que vis à vis des autres pays, mais nous ne permettons à aucun d'abuser de notre attitude pacifique. On sait à quelle époque le Traité de 1937 a été conclu; le Gouvernement Impérial s'est efforcé de tout temps de s'entendre avec l'Irak par la voie des négociations et de mettre fin à cette iniquité.

"Chose curieuse, notre voisin pare sans cesse du colonialisme et ne manque pas d'évoquer le temps où il en subissait les méfaits. Permettez moi de compatir pour une fois avec notre voisin et de lui rappeler que c'est à cette même époque que le Traité fut imposé à l'Iran. Depuis, nous n'avons pas cessé de dire et de proclamer que ce Traité était loin d'être équitable et n'assurait guère à l'Iran ses intérêts. Il ne se trouve aucun exemple au monde où un fleuve coulant entre deux pays limitrophes soit soumis à l'autorité d'un seul d'entre eux. En dépit de toutes ces injustices, l'Irak, s'obstinant dans son indifférence vis-à-vis de ses engagements, s'est bien gardé d'exécuter les dispositions du Traité en question : non seulement l'Irak s'est toujours dérobé à la conclusion d'un accord qui, d'après l'article 5 du Traité, devait soumettre la gestion du Chatt-el-Arab à une administration commune, mais depuis 28 ans que ce Traité est conclu, il a employé à sa guise les revenus provenant de ce fleuve à d'autres fins que celles prévues dans le Traité, et n'a jamais voulu en rendre des comptes à l'Iran. Agissant ainsi, l'Irak a en effet, violé le Traité de 1937, et le Gouvernement Impérial est en droit de le considérer de son côté comme inexistant. Quoique tous les faits qui viennent d'être évoqués suffisent à eux seuls à mettre en évidence l'indifférence de l'Irak vis-à-vis de ses engagements internationaux, nous sommes disposés néanmoins, comme je l'ai officiellement proclamé il y a six ans devant le Madjlis, à entamer des négociations avec l'Irak et rechercher avec lui les moyens de conclure un autre accord susceptible de préserver

d'une manière équitable les intérêts des deux Parties. Malgré notre insistance, l'Irak n'a jamais voulu prêter une oreille conciliante à cette offre.

"Lorsqu'en 1961 le Gouvernement Impérial décida de faire acheminer les navires aux quais d'Abadan par ses propres agents, les Irakiens leur suscitèrent des difficultés telles que l'Iran en subit des dommages s'élevant à plusieurs millions de livres; craignant ennuyer Mesdames et Messieurs les Sénateurs, je ne rentre pas davantage dans les détails de cette affaire. En ce qui concerne les frontières terrestres, les incidents sont nombreux et les membres du Sénat sont suffisamment informés sur les propos malveillants proférés contre notre pays par la presse et la Radio de Bagdad. Je crois qu'il est inutile d'insister sur le mauvais traitement dont les ressortissants iraniens en Irak sont l'objet. Les Irakiens ont mis en cause les droits acquis par des Iraniens depuis des siècles, en Irak ces derniers se heurtent à de nombreux obstacles concernant leurs permis de séjour, de travail ou leur droit de propriété. Les écoles dirigées par des enseignants iraniens, grâce à des fonds versés par le Gouvernement Impérial, se trouvent également aux prises avec des difficultés insurmontables. Les ressortissants iraniens se voient contraints de se défaire de leurs biens immobiliers à vil prix. Dans leurs contacts avec les Iraniens, les fonctionnaires irakiens n'observent aucunement les règles de l'hospitalité et de la courtoisie et éprouvent un malin plaisir à compliquer l'existence de nos compatriotes. En Irak, en somme, on ne traite pas l'Iranien en ami.

"Quel est le pays qui puisse faire preuve de tant de patience et de longanimité ! Dans le souci de maintenir la paix dans cette région, nous nous efforçons de résoudre nos différends, temporairement fussent-ils, par des négociations directes, mais malheureusement notre appel n'a produit jusqu'ici aucun écho favorable chez notre voisin.

Je n'ai point l'intention d'énumérer ici tous les

méfais commis par les Irakiens, Messieurs les Sénateurs en sont eux-mêmes amplement informés.

"Nous nous demandons jusqu'à quel moment cette situation désagréable peut durer entre les deux pays. Dans les circonstances actuelles, j'estime de mon devoir de rappeler qu'aucune tolérance n'est permise. Si l'amitié et le respect que se doivent deux voisins ne sont pas réciproques ils n'aboutissent à aucun résultat, si ce n'est qu'à des complications. Aussi, je proclame solennellement du haut de cette tribune que désormais devant les atteintes portées aux droits légitimes de l'Iran, la modération et des considérations d'autres ordres ne pourront nous retenir : nous saurons faire taire le bruit de toutes armes qui seraient braquées contre le sol de notre patrie.

"Avant de conclure, je répète encore une fois, que nous avons manifesté notre bonne volonté bien des fois et nous ne sommes pas lassés de demander que des négociations s'ouvrent entre les deux Parties. Le Gouvernement Impérial est prêt à s'asseoir à la table des négociations, que ce soit à Téhéran ou à Bagdad où les représentants iraniens, se conformant aux vœux pacifistes de Sa Majesté Impériale le Chahinchah Aryamehr, s'efforceront de résoudre leurs différends avec les représentants du Gouvernement Irakien. C'est d'ailleurs la politique que le Gouvernement Impérial a adoptée non seulement avec l'Irak, mais envers tous ses voisins. Notre politique étrangère, pleinement conforme aux principes de la Charte des Nations Unies, est basée essentiellement sur le maintien de la paix tant régionale qu'internationale et, pour la promotion de cette politique, nous avons déployé tout ce qui était en notre pouvoir. Le vœu le plus sincère de notre pays est de vivre en paix avec ses voisins dans une atmosphère d'amitié et de détente. C'est en parfaite observation de cette politique claire et sans faille que nous avons établi des meilleures relations d'amitié avec nos autres voisins, avec lesquels nous sommes parvenus à résoudre tous nos différends. Il y a à peine

trois semaines, nous avons pu nous entendre avec un pays ami et frère, l'Arabie Séoudite, sur la délimitation de notre plateau continental. De même, nous avons entamé récemment des pourparlers amicaux avec un autre pays frère, le Koweït. Parmi les pays qui ont une frontière commune avec nous, c'est l'Irak seul qui, depuis de longues années, non seulement n'a pas voulu s'asseoir autour d'une table de conférence pour résoudre nos problèmes litigieux mais par des violations répétées, dans les régions frontalières, a rendu les relations entre nos deux pays de plus en plus critiques.

Je viens de rendre public devant vous la décision du Gouvernement Impérial, et je forme de tout mon cœur le vœu que le Gouvernement irakien saisisse, la main de l'amitié que nous lui tendons, et désigne une délégation qui, animée, je l'espère, des meilleures intentions, voudra bien aborder avec nous tous les problèmes en suspens et leur trouver une fois pour toutes une solution définitive. Ainsi une nouvelle ère de paix et de fraternelles amitiés fera place à une période de discordes et de malentendus, c'est en tout cas notre vœu le plus sincère."

2 - Visite du Ministre des Affaires Etrangères de l'Irak en Irak

En mars 1964, une délégation irakienne se trouvait en Iran et il fut convenu que le Ministre des Affaires Etrangères du Gouvernement Impérial se rendrait en Irak, dès que les circonstances le permettraient, pour une visite et la reprise des négociations. Cette invitation fut renouvelée de la part du Ministre des Affaires Etrangères de l'Irak, M. Adnan Patchatchi. Disons qu'à cette époque M. Abdel Rahman Aref venait de remplacer son frère, Abdel Salam, à la tête du Gouvernement Irakien. A cette même date, on avait donné des assurances à l'Ambassadeur Impérial à Bagdad que le Gouvernement Irakien désirait mettre fin à ses différends avec l'Iran.

En conséquence, M. Aram, Ministre des Affaires Etrangères de l'Iran, accompagné d'une délégation, se rendit à Bagdad en décembre 1966, où il eut des entretiens avec son homologue irakien. Ce voyage ne fut qu'une visite protocolaire, les Irakiens répétant toujours ce qu'ils avaient dit, ne faisant aucun geste pour arriver à un accord au sujet du Chatt-el-Arab. Un communiqué fut publié à l'issue de cette visite. Les Irakiens y avaient évoqué la nécessité de la reprise des pourparlers relatifs aux eaux frontalières, sur la base du droit international public.

3 - Visite du Président de la République et du Premier Ministre de l'Irak en Iran

En mars 1967, Abdel Rahman Aref, président de la République d'Irak à l'époque, se rendit en Iran où des négociations eurent lieu au sujet des relations entre les deux pays. Dans un communiqué publié à l'issue de cette rencontre, il avait été dit, qu'en vue de l'exploitation des voies d'eau communes, des pourparlers se dérouleraient entre les deux Parties sur la base du droit international public.

Quelques mois après cette visite, le Général Taher Yahya, étant nommé à la présidence du Conseil d'Irak, manifesta le désir de se rendre en Iran, en vue de reprendre les discussions avec les autorités du Gouvernement Impérial. Cette visite eut lieu en juin 1968.

Dans un communiqué conjoint, publié à l'issue de cette visite, il fut annoncé qu'en vue de l'exécution des termes des communiqués communs irano-irakiens du 19 décembre 1966 publiés à la fin de la visite du Ministre iranien des Affaires Etrangères en Irak, et celui du 19 mars 1967, paru à l'issue de la visite en Iran du Général Aref, président de la République d'Irak, et d'après l'accord conclu entre les deux premiers ministres, les deux Parties conviennent de former, dans les plus brefs délais, des

commissions mixtes et de se communiquer les résultats obtenus.

Le 17 juillet 1968, le Parti Baas fit un coup d'Etat en Irak écartant Abdel Rahman Aref et Taher Yahya du pouvoir et porta Ahmad Hassan El-Bakr à la présidence de la République; quelques jours après, ce dernier prit également en main la présidence du Conseil.

A la suite des incidents de frontière, le Général Hardan Takriti, ministre de la Défense et commandant en chef des forces aériennes de l'Irak et en même temps vice-président de la République, manifesta l'intention d'effectuer un voyage en Iran afin de mettre en application les termes du communiqué conjoint publié à l'issue du séjour de Taher Yahya et de résoudre les problèmes en suspens entre les deux pays. Le Gouvernement Impérial accepta cette demande et le ministre de la Guerre de l'Iran adressa à cet effet une invitation à son homologue irakien.

En décembre 1968, le général Takriti, accompagné d'une délégation composée du ministre des Affaires Etrangères, du directeur général des Affaires politiques et de quelques autres personnalités qui avaient déjà fait une visite officielle en Iran, arriva à Téhéran.

Au cours de cette visite, Takriti se rendit parfaitement compte que le Gouvernement Impérial désirait pour le peuple irakien le bonheur et la prospérité et, de ce fait, tout en exprimant le vœu de son Gouvernement en vue du développement des relations amicales avec l'Iran, il déclara que le Gouvernement Irakien était prêt à aborder les questions en suspens entre les deux pays (Chatt-el-Arab entre autres) et de procéder à une révision du Traité de frontière conformément aux principes du droit international; il demanda que la suite des négociations eût lieu à Bagdad.

4 - Voyage d'une délégation iranienne à Bagdad

Le 18 décembre 1968, après le retour de Takriti, le

Gouvernement irakien présenta au cours d'une note les membres de sa délégation, désignée pour la reprise des négociations au sujet des problèmes en suspens entre les deux pays. Le Gouvernement Impérial présenta immédiatement sa propre délégation qui était placée sous la direction du Sous-Secrétaire d'Etat aux Affaires Politiques du Ministère des Affaires Etrangères, et il fut décidé que sur l'invitation des autorités irakiennes, cette délégation se rendrait à Bagdad au mois de janvier. Bien que la date du voyage de la délégation iranienne fût fixée, les Irakiens demandèrent de surseoir à ce voyage jusqu'au 27 janvier 1969. A la date prévue, le Sous-Secrétaire d'Etat aux Affaires Etrangères et les membres de la délégation iranienne se rendirent à Bagdad et à la première séance des travaux, après avoir souligné que c'était sous la pression de la politique colonialiste que le Traité de 1937 avait été imposé à l'Iran et que l'on n'y avait tenu aucun compte des principes reconnus du droit international et des règles de l'équité, le chef de la délégation iranienne demanda la conclusion d'un nouveau traité frontalier sur la base des principes admis en droit international et soumit un projet dans ce sens.

La délégation irakienne, sans en référer à la délégation iranienne, ajourna à plusieurs reprises la réunion de la deuxième séance de travail et lorsqu' enfin les deux délégations se trouvèrent face à face, on s'aperçut que les Irakiens, cette fois encore, n'étaient pas animés des meilleures intentions, et en dépit des promesses formelles qu'ils avaient données, n'étaient nullement disposés à conclure un nouvel accord. Bien qu'ils reconnussent que le Traité de 1937 avait été signé sous l'influence du colonialisme, ils n'entendaient point, pour ce qui était du Chatt-el-Arab, se soumettre aux principes admis en droit international.

La délégation irakienne, reprenant un thème cher au général Abdel Karim Kassem, prétendit qu' au moment de la conclusion du Traité de frontière une portion du territoire irakien avait été cédée à l'Iran. Non seulement la délégation

irakienne ne tint aucun compte des promesses données par Takriti, qui était en quelque sorte le promoteur du voyage de la délégation iranienne, mais une fois de plus, elle mit en évidence sa mauvaise foi et sa détermination de ne pas respecter les dispositions dudit Traité. En conséquence la continuation des pourparlers parut inutile à la délégation iranienne qui regagna Téhéran le 12 février 1969.

5 - Proclamation de la non-validité du Traité de 1937

Avant de quitter Bagdad, M. Khalatbary, Sous-Secrétaire d'Etat aux Affaires Etrangères et chef de la délégation iranienne, adressa la lettre suivante à M. El-Naama chef de la délégation irakienne. Dans cette lettre, il fut solennellement annoncé que du point de vue du Gouvernement Impérial, le Traité de frontière de 1937 était sans valeur et devait être considéré comme nul et non avenu :

Bagdad le 11. 2. 1969

Son Excellence Monsieur Naam-el-Naama

Chef de la délégation d'Irak,

Au sujet des déclarations faites le dimanche 9 février 1969, à la deuxième réunion de la commission commune irano-irakienne, au cours de laquelle le point de vue du Gouvernement de la République d'Irak devant le projet proposé par la délégation iranienne fut exposé, je vous fais savoir :

Lesdites déclarations ne sont que la répétition de celles déjà avancées à différentes reprises par le Gouvernement irakien et auxquelles le Gouvernement Impérial a donné des réponses appropriées. Comme il a été rappelé plusieurs fois, le Traité de la délimitation de la frontière de 1937 a été pratiquement résilié par le Gouvernement Irakien de différentes manières, entre autre par la non exécution durant des dizaines d'années, de ses principales dispositions. En outre, en ce qui concerne les frontières fluviales, ce Traité va à l'encontre des usages et des principes du

droit international. En conséquence, le Gouvernement Impérial de l'Iran considère ledit Traité sans valeur et comme nul et non avenu.

"Etant donné que la délégation iranienne a reçu des instructions pour regagner Téhéran le plus tôt possible, je me contenterai de ce bref exposé: la réponse détaillée aux déclarations de la délégation irakienne sera communiquée plus tard.

Je saisis cette occasion pour renouveler l'assurance de ma meilleure considération,

Chef de la Délégation de l'Iran,
Abbas Ali Khalatbary

A la suite de la lettre susmentionnée, c'est-à-dire après deux mois et demi et une fois que le Ministre des Affaires Etrangères par intérim eût proclamé solennellement devant le Sénat que le Traité de 1937 était sans valeur et considéré comme nul et non avenu, une lettre ainsi conçue fut adressée le 30 avril 1969 à M. Naam-el-Naama, Sous-Secrétaire d'Etat aux Affaires Etrangères de l'Irak:

Téhéran le 30 avril 1969

Son Excellence Monsieur Naam-el-Naama

Sous-Secrétaire d'Etat aux Affaires Etrangères de l'Irak,

"En réponse à votre lettre du 16 avril 1969, je vous fais savoir que Votre Excellence, au cours de la deuxième réunion de nos travaux, a semblé mettre en doute la bonne volonté du Gouvernement Impérial tandis que Votre Excellence connaît parfaitement tous les détails des négociations qui se sont déroulées dans le passé et les efforts déployés durant de longues années par le Gouvernement Impérial en vue d'amener l'Irak à exécuter les engagements découlant du Traité de 1937. Malheureusement on s'est aperçu que dans de telles conditions les négociations ne pouvaient aboutir aux résultats espérés.

En conséquence, conformément aux instructions de mon Gouvernement, la délégation iranienne a regagné Téhéran.

Mais en ce qui concerne les points auxquels vous faites allusion dans votre lettre, j'ai l'honneur de vous faire savoir:

"1 - Le principe du respect des engagements pris (Pacta Sunt Servanda) auquel vous faites allusion dans votre lettre, n'a pas été respecté par le Gouvernement irakien quant au Traité de frontière de 1937 car:

a) En dépit des demandes réitérées du Gouvernement Impérial, le Gouvernement irakien, dès la conclusion du Traité, c'est-à-dire depuis 32 ans, a constamment violé les articles 4 et 5 dudit Traité ainsi que l'article 2 de son Protocole-annexe. En vertu du Traité en question et d'après les termes du Protocole-annexe, l'administration du Chatt-el- Arab devait être assurée par les deux Etats suivant un accord qui serait conclu entre eux dans un délai d'un an. Il avait été prévu également au Protocole que les revenus provenant des redevances perçues seraient employés à l'amélioration de la navigabilité dans le Chatt-el-Arab et que le Gouvernement Impérial serait tenu au courant, par rapports semestriels, des travaux accomplis, des sommes perçues ainsi que des dépenses ou de toutes autres activités déployées. Mais le Gouvernement irakien, en dépit des engagements insérés dans l'article 2 du Protocole-annexe, s'est abstenu de présenter au Gouvernement iranien des rapports semestriels. Il est vrai qu'il en a présenté un en 1938. A la suite des protestations élevées par le Gouvernement iranien, les autorités irakiennes s'engagèrent à présenter, à partir de 1948, des rapports semestriels. Mais cet engagement n'a pas été tenu.

b) En dehors de ce que nous venons de relever, il faut rappeler que le Gouvernement irakien a décrété unilatéralement des lois et des règlements concernant le Chatt-el-Arab, sans avoir obtenu préalablement l'accord

du Gouvernement iranien; d'ailleurs, les protestations du Gouvernement Impérial à ce sujet n'ont été suivies d'aucun effet.

c) Compte tenu de ces antécédents, le recours du Gouvernement irakien aux principes du "respect des engagements" est pour le moins curieux, car ce Gouvernement, en contradiction avec le principe dont il se prévaut, a violé, sous différentes formes, les dispositions essentielles du Traité de la délimitation de 1937. Avec l'inobservation et la non-exécution des articles qui sont directement liés aux buts recherchés par le Traité, l'Irak l'a pratiquement résilié d'une manière unilatérale.

En conséquence, la position prise par le Gouvernement Impérial envers le Traité de 1937, qui consiste à ne lui attacher aucune valeur et à le considérer comme nul et non avenu, résulte logiquement de la violation du Traité par l'Irak lui-même.

"2- Au point de vue juridique et par sa situation géographique, le Chatt-el-Arab ne peut se placer sous l'autorité et la souveraineté de l'Irak, car ce fleuve prend sa source, pour plus de la moitié, du territoire iranien et la majeure partie de la navigation s'y effectue en direction de deux importants ports de l'Iran.

Il va de soi que le Gouvernement Impérial ne peut avoir sur le fleuve des droits moindres que ceux de l'Irak. D'ailleurs, à travers les termes généraux du Traité de 1937 et d'après l'esprit de son Protocole-annexe, un fait est parfaitement perceptible: le Chatt-el-Arab n'est pas soumis à l'autorité absolue de l'Irak. En plus, d'après les principes admis en droit international et suivant la pratique adoptée par la quasi-unanimité des pays, l'égalité des droits est reconnue pour les pays riverains quant aux voies d'eau navigables, et en cette matière aucune prérogative particulière n'est reconnue à un pays au détriment d'un autre.

"3- En dehors de ce fait, on peut également avancer que la conjoncture dans laquelle l'article 4 du Protocole-annexe avait été conçu est modifiée et cette modification exige qu'un nouveau régime, susceptible d'assurer les droits des deux Parties quant à l'exploitation du Chatt-el-Arab, soit instauré.

"4- Je tiens à affirmer en terminant, que le Gouvernement Impérial est désireux de maintenir ses relations avec le Gouvernement de la République d'Irak et de lui conserver son attachement; il est prêt à conclure, sur la base et d'après les principes pratiqués en droit international, un nouveau traité ayant pour objet la délimitation des eaux du Chatt-el-Arab. Il espère enfin que le Gouvernement irakien, animé du respect qui est dû aux droits intangibles de l'Iran sur ce fleuve, voudra bien adopter la même attitude et contribuer ainsi à la consolidation des bonnes relations entre les deux pays.

Je saisis cette occasion pour exprimer à Votre Excellence, l'assurance de ma meilleure considération.

Abbas Ali Khalatbary

Sous-Secrétaire d'Etat pour les Affaires

Politiques au Ministère des Affaires Etrangères

Chapitre V

LES CAUSES DU DÉCLENCHEMENT DE LA DERNIÈRE CRISE

Déclarations du Ministre par intérim des Affaires Etrangères devant le Sénat

I - Déclarations du Vice-Ministre des Affaires Etrangères d'Irak

Comme nous l'avons évoqué au chapitre IV, en dépit des promesses formelles faites par les Irakiens à travers de nombreux communiqués, et contrairement aux assurances données par le Vice-Président de la République d'Irak lors de son séjour à Téhéran et à la suite desquelles une délégation iranienne se rendit dans ce pays, les négociations de Bagdad n'aboutirent à rien et la délégation iranienne s'est vue obligée de regagner Téhéran.

Après cet événement, M. Naam-el-Naama, Vice-Ministre des Affaires Etrangères de l'Irak invita, le 15 avril 1969, l'Ambassadeur Impérial à Bagdad à son cabinet et lui déclara:

"Le Gouvernement Irakien considère le Chatt-el-Arab comme faisant partie de son domaine de souveraineté et prie le Gouvernement Impérial de donner des instructions aux navires arborant le pavillon iranien de faire baisser ledit pavillon et de faire évacuer de leur bord les membres de la Marine Impériale s'ils s'y trouvent, sinon, pour ce faire, le Gouvernement irakien aura

recours à la force et ne permettra désormais aux navires se dirigeant vers les ports iraniens de s'engager dans le Chatt-el-Arab."

A la suite de ces déclarations qui constituaient une menace directe à l'égard des droits naturels et de la souveraineté de l'Iran sur le Chatt-el-Arab, M. Amir Khosrow Afshar, Ministre par intérim des Affaires Etrangères, en réponse à une question posée par un sénateur, prononça un discours devant le Sénat le 19 avril 1969, au sujet des relations entre l'Iran et l'Irak au cours duquel il évoqua le comportement inhumain des autorités irakiennes vis à vis des ressortissants iraniens et les excès dont ceux-ci étaient l'objet. Le Ministre par intérim dit en substance: «D'après les thèses exposées devant le Sénat, le Traité de frontière de 1937 conclu entre l'Iran et l'Irak est résilié unilatéralement par l'Irak et, de ce fait, le Gouvernement Impérial le considère comme nul et non avenu.

2- Voici un extrait du discours du Ministre par intérim des Affaires Etrangères prononcé devant le Sénat :

.....En ce qui concerne l'incident du 6 mars dernier, aboutissant à la mort d'un pêcheur iranien, les éléments de la garde frontalière iranienne ont immédiatement élevé une protestation contre cet acte. L'Ambassade Impériale à Bagdad a demandé des explications au Gouvernement irakien et lui a rappelé que des ordres soient donnés aux agents irakiens de ne plus se livrer à de telles agressions; l'Ambassadeur a demandé également la réparation des dommages causés. Malheureusement le Gouvernement irakien ne nous a adressé aucune réponse à ce sujet.

Quant à l'incident du 23 mars, lorsque quelques pêcheurs iraniens furent arrêtés par des éléments irakiens, l'Ambassade Impériale protesta immédiatement contre cette attitude auprès du Gouvernement de Bagdad; comme vous le savez le Gouvernement irakien a libéré en fin de compte ces pêcheurs.

Au sujet des excès dont les ressortissants iraniens sont l'objet, les nouvelles qui sont parvenues à l'honorable Sénateur sont malheureusement exactes : les Iraniens résidant en Irak sont soumis depuis quelques temps à des actes hostiles et un certain nombre d'entre eux ont été arrêtés sans raisons valables. Nous avons même des informations confirmant les tortures que certains iraniens prisonniers ont subies en Irak.

Je ne sais pas si l'honorable Sénateur a eu connaissance du fait qu' à la radio et à la télévision de Bagdad on avait contraint un communiste irakien incarcéré à se livrer à des déclarations tendancieuses et mensongères à l'égard de l'Iran.

Il est évident que les raisons de ces intrigues sont connues; mais dans les circonstances actuelles je voudrais garder le silence à leur sujet. Je peux confirmer par contre que le Gouvernement iranien suit attentivement les événements et espère que le Gouvernement irakien se rendra compte des suites graves que pourront comporter de telles intrigues et de telles mises en scène; nous espérons que le Gouvernement irakien fera en sorte que de semblables provocations ne se produisent plus.

Puisque nous en sommes arrivés à ce point, il me semble utile de parler quelque peu du Chatt-el-Arab dont le nom antique est Arvand Roud et constitue la frontière commune entre l'Iran et l'Irak.

Le Gouvernement Impérial de l'Iran, s'inspirant des aspirations pacifistes de Sa Majesté Impériale le Chahinshah Aryamehr, et en considération des affinités séculaires qui le lient à l'Irak, s'est efforcé de tout temps de résoudre avec son voisin d'une manière amicale ses différends frontaliers dont le plus important concerne le Chatt-el-Arab. Mais depuis la conclusion du Traité de frontière de 1937, l'Irak n'a jamais voulu respecter les engagements qui en découlaient. C'est ainsi que le Gouvernement irakien s'est abstenu d'exécuter les deux

principaux articles de ce Traité de même que l'article 2 de son Protocole annexe qui ont trait à l'administration commune du Chatt-el-Arab et à l'utilisation adéquate des revenus en provenant. Les efforts tentés par le Gouvernement Iranien, en vue d'amener l'Irak à respecter les engagements découlant du Traité, sont jusqu'ici restés absolument sans effet et depuis 30 ans le Gouvernement irakien a pris en main, d'une manière unilatérale et illégale, l'administration du Chatt-el-Arab. Tout le long de cette période, de substantielles redevances provenant de la navigation sur le Chatt-el-Arab, ont été perçues par le port de Bassorah qui les a utilisées à d'autres fins que celles stipulées dans le Traité: des hôtels et des aéroports ont été construits à Bassorah grâce aux sommes provenant des redevances perçues sur le Chatt-el-Arab et ceci malgré les protestations du Gouvernement iraniens. D'ailleurs, les autorités irakiennes se sont abstenues de nous communiquer des comptes à ce sujet.

Compte tenu de cette situation il a été confirmé à différentes reprises, soit solennellement devant le Sénat ou le Madjlis, soit par des notes adressées dernièrement au Gouvernement irakien, qu' étant donné que ce Gouvernement avait considéré comme lettre morte les principaux articles de ce Traité et étant donné que les démarches du Gouvernement Impérial en vue d'amener l'Irak à respecter ses engagements n' ont pas abouti, en conséquence, conformément aux principes établis du droit international, le Traité en question est entâché de nullité et considéré comme nul et non avenu par le Gouvernement Impérial."

le Ministre par intérim a continué:

"Selon le droit international, parmi les causes pouvant annuler les traités qui, comme celui de 1937, sont conclus sans fixation de durée, il y a celle appelée "rebus sic stantibus". Ce principe veut que les conditions et les les circonstances dans lesquelles un accord est

initialement conclu restent les mêmes : par conséquent, la disparition de ces conditions et de ces circonstances entraîne ipso facto l'abrogation des engagements qui découlaient de ce même accord. Dans ce cas, chacune des parties contractantes a le droit de dénoncer le traité ou bien la partie qui ne correspond plus à la situation nouvelle. Ce principe est fréquemment utilisé en droit international par divers pays.

"Compte tenu du principe que je viens d'évoquer, le Traité de 1937 a été conclu entre l'Iran et l'Irak à une époque où le colonialisme britannique était à l'apogée de sa puissance et tenait l'Irak enserré dans ses griffes. C'est dans de telles conditions que l'Iran, soumis à de multiples pressions, a été obligé d'apposer sa signature au bas de ce traité selon lequel tout le Chatt-el-Arab, à l'exception de deux zones, a été cédé à l'Irak. On ne peut trouver actuellement dans le monde une situation analogue soumettant à l'autorité d'un seul Etat l'administration d'un fleuve de l'importance du Chatt-el-Arab, lorsque ce fleuve est situé sur la frontière commune de deux pays. Comment peut-on admettre qu'une voie d'eau frontalière, qui plus est, prend une grande partie de sa source à partir du territoire iranien, appartienne à un autre pays? Dans le monde actuel, selon les règles du droit international, il existe des principes mondialement connus, qui déterminent d'une manière précise la situation des cours d'eau coulant entre deux pays. Nous ne sommes plus en 1937, le règne du colonialisme est révolu, ses suites doivent prendre le même chemin. N'est-il pas étrange de prétendre que le colonialisme s'est effacé d'un pays mais que ce même pays s'obstine à en conserver les conséquences?

Un autre principe du droit international relatif aux traités, concerne l'égalité des droits des deux parties. Une telle égalité existe-t-elle en ce qui concerne le Chatt-el-Arab? Si oui, on se demande comment se fait-il que, conformément aux principes du droit international qui régissent

les fleuves coulant entre deux pays, le Thalweg, c'est-à-dire la ligne de profondeur ou alors la ligne médiane n'aient pas été prises en considération sauf dans deux zones, pour déterminer la frontière commune sur le Chatt-el-Arab.

"Dernièrement, une autorité irakienne aurait prétendu que d'après le Traité de 1937 une partie du Chatt-el-Arab avait été donnée à l'Iran. Il s'agirait de la ligne Thalweg devant Abadan et Khorramchahr. Or la réalité est tout à fait différente :

"Durant toute la période où l'Empire ottoman avait cette région proche de l'Iran sous son autorité, la question de la souveraineté ou de la délimitation des frontières entre l'Iran et l'Empire ottoman sur le Chatt-el-Arab n'avaient pas été expressément précisée par le Traité dit d'"Erzeroum" mais en pratique, la gestion de ce fleuve, jusqu'à la limite où les deux rives appartenaient à l'Empire ottoman, était assurée conjointement par les deux Parties.

"Je ne veux pas entrer plus en avant dans l'exposé de ce problème, je répète en substance du haut de cette tribune qu'en considération des arguments que je viens d'évoquer, le Traité de frontière de 1937 est considéré par le Gouvernement Impérial comme nul et non avenu. Par conséquent, sur l'ensemble du Chatt-el-Arab, l'Iran n'admet que les principes reconnus en droit international, c'est-à-dire le Thalweg ou la ligne médiane. Le Gouvernement Impérial arrêtera de toutes ses forces tout empiètement sur ses droits de souveraineté et ne permettra à personne de leur porter atteinte.

"Je dois porter à votre connaissance que le 15 avril dernier le Sous-Secrétaire d'Etat au Ministère irakien des Affaires Etrangères a demandé à l'Ambassadeur Impérial d'aller lui rendre visite à son département ministériel. Au cours de l'entrevue, le Ministre irakien lui a dit clairement que son Gouvernement considérait le Chatt-el-Arab comme faisant partie de son territoire et que le Gouvernement Impérial était en conséquence prié de

donner l'ordre aux navires arborant le pavillon iranien à le baisser. Le Ministre avait ajouté qu'au cas où des éléments des forces navales iraniennes se trouveraient à bord des navires ils devraient les quitter, sinon le Gouvernement irakien les ferait évacuer par la force et ne permettrait plus à l'avenir le passage dans le Chatt-el-Arab des navires ayant pour destination les ports iraniens.

"Cette déclaration du Sous-Secrétaire d'Etat Irakien constitue, Messieurs, une menace directe contre les droits légitimes de l'Iran, c'est-à-dire contre sa souveraineté.

"Comment peut-on permettre à un pays de faire descendre le pavillon de l'Iran ? Comment peut-on concevoir qu'un pays se permette d'offenser l'armée impériale?

"Aujourd'hui, même un pays doté de la force nucléaire ne peut se permettre une telle arrogance; que peut-on alors dire de l'Irak ?

"En dépit de tout l'intérêt que l'Iran porte à l'amitié avec son voisin, et malgré les efforts tentés dans la voie de la conclusion d'un nouvel accord avec l'Irak, je dois déclarer cependant au nom du Gouvernement Impérial que toute agression, toute offense contre la souveraineté de l'Iran sur le Chatt-el-Arab, toute entrave au passage des navires battant pavillon iranien, tout recours à la force envers l'armée impériale, se heurteront à la résistance et à une vive réaction des forces armées de l'Iran et nous répondrons au feu par le feu.

Aussi, la responsabilité d'une telle action et les suites graves qu'elle pourra comporter, incombera uniquement au Gouvernement irakien..

3- Déclaration Publiée le 27 avril 1969 par le Ministère Impérial des Affaires Etrangères (1)

"Ainsi que le Gouvernement Impérial d'Iran, l'a offi-

(1) Texte paru aux Documents du Conseil de Sécurité.

ciellement annoncé, étant donné que les importantes clauses du Traité de frontière de 1937 ont toujours, au cours des trente deux années qui se sont écoulées depuis sa conclusion, été considérées comme lettre morte par le Gouvernement irakien, et ce, en dépit des efforts et des demandes répétées du Gouvernement Impérial, et étant donné que le Gouvernement irakien a usé de manoeuvres dilatoires pour éviter d'avoir à appliquer les dispositions dudit traité, celui-ci, a en pratique, été résilié par le Gouvernement irakien, et le Gouvernement Impérial, conformément aux principes consacrés du droit international, considère que cet instrument est sans valeur, nul et non avenu.

Par ailleurs, compte tenu des précédents historiques, étant donné que ce Traité a été conclu à une époque où le colonialisme britannique s'évertuait à protéger l'Irak et obtenait l'insertion dans cet accord de diverses clauses du type de celles qui figurent à l'article 14 du Protocole-annexe du Traité qui rappelle les obligations spéciales de l'Irak envers la Grande-Bretagne, et que cette situation a maintenant changé, il est évident que les effets, les résultats et les produits de cette situation sont désormais eux aussi caducs, et que l'héritage transmis par le colonialisme doit être répudié.

En vertu, par ailleurs, du principe du droit *rebus sic stantibus*, qui admet qu'un changement de circonstances par rapport à la situation existant à l'époque de la conclusion d'un traité est un motif d'invalidation et d'annulation le Traité injuste imposé à l'Iran en 1937 ne peut plus être considéré comme étant ni valide et ni applicable. Ceci est particulièrement vrai en ce qui concerne le Chatt-el-Arab dont les eaux prennent pour une bonne partie leur source dans les montagnes iraniennes: le principe d'égalité des droits entre les signataires d'un traité, principe universellement reconnu, n'a absolument pas été respecté en l'espèce.

Ainsi qu'il a été officiellement annoncé, le Gouver-

nement Impérial d'Iran, sur l'ordre de Sa Majesté Impériale le Chahinchah Aryamehr dont il exécute les buts pacifiques, est disposé à entamer sans délai, dès demain même, des négociations avec le Gouvernement irakien en vue de définir la frontière dans la région du Chatt-el-Arab, sur la base du principe internationalement admis de la ligne du Thalweg, et à signer un nouveau traité avec l'Irak. Le Gouvernement Impérial est également disposé, pour peu que le Gouvernement d'Irak fasse preuve de bonne volonté, à mettre un terme à l'état d'urgence qui a été proclamé dans la zone frontalière en raison des menaces formulées par le Gouvernement irakien à condition que de son côté ce dernier en fasse autant et à ordonner que toutes les forces envoyées regagnent leur garnison.

Le Gouvernement Impérial estime nécessaire de souligner par la même occasion que si dans l'intervalle ou à tout autre moment il constatait le moindre geste marquant un désir d'offenser le drapeau impérial d'Iran ou la moindre mesure tendant à interdire le libre passage des navires dans le Chatt-el-Arab, de telles initiatives déclencheraient de sa part une riposte sévère et le contraindraient à prendre toute disposition nécessaire, au nom du devoir sacré qui lui incombe, pour lever les obstacles ou les entraves dressés devant la navigation. Le Gouvernement irakien sera tenu responsable de toutes les conséquences graves que pourrait provoquer sa politique agressive en ce qui concerne le Chatt-el-Arab.

En conséquence, comme il l'a annoncé à plusieurs reprises devant différentes instances, le Gouvernement Impérial se conformant aux nobles instructions et aux vœux magnanimes de Sa Majesté Impériale le Chahinchah Aryamehr, est désireux et se tient prêt à reprendre les négociations avec le Gouvernement irakien et à conclure avec lui un nouveau traité garantissant les intérêts de l'Iran.

Ce traité portera la fixation, selon le Thalweg, de la ligne frontière sur le Chatt-el-Arab. Cette solution s'assortit pleinement aux principes admis en droit international.

Reference

Mr. Hinchcliffe.

Near East Dept

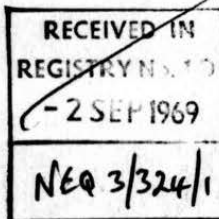
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Note for File

Arab Boycott

Mr. Moore (Chamber of Shipping) reported today that he had received a call from the Shipping Attache at the Iranian Embassy (Mr. Gharai) who was anxious to know whether the Chamber had heard of a new Iraqi control over vessels using the Shatt-al-Arab. Apparently the Iranians had heard a rumour (from an undisclosed source) that the Iraqis were examining the manifests of all vessels using the river to discover whether they were contravening Arab Boycott Office regulations. Mr. Moore had checked with Strick Line who were not aware of any such developments.

2. I told Mr. Moore that we had received no reports of any difficulties in the Shatt-al-Arab since the complications over pilotage arrangements several months ago. Mr. Moore will be checking with British India before replying to the Iranians. I promised to let him know if we received any reports of any new Iraqi restrictions.



(M. J. Cochlin)

Shipping Policy Div.
Board of Trade
(Adelphi).
27th August 1969.

c.c. Mr. Ayres (AM & T) F.C.O.

Mr. Hinchcliffe, (Near East Dept.) F.C.O. ✓

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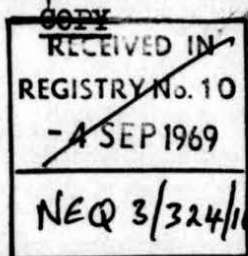
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No. 6614/6614/4



Mr. A. ... 3

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Ministry of Foreign Affairs,
Political Department,

Baghdad, 18 August, 1969.

The Ministry of Foreign Affairs presents its compliments to the Diplomatic Corps accredited to Iraq, and further to the Ministry's Note No. 6771/312/11 of 20 May, 1969, has the honour to attach herewith a text of the letter of the Iraqi Permanent Representative at the United Nations, New York, dated 11 July, 1969, addressed to the President of the Security Council, together with its enclosures - a summarized objective study regarding Shatt Al Arab.

The illegal and persistent attitude of the Iranian Government in announcing its unilateral abrogation of the Iraq-Iranian Frontier Treaty of 1937, and its threats of using force, which it will actually use to implement its unilateral announcement, is an act considered a clear violation of the Charter of the United Nations, the Principles of the International Law and the International Conventions by which International relations are organised.

In view of the desire of the Government of the Republic of Iraq for respecting the Principles and the Charter of the United Nations and its desire for the establishment of peace, security and justice in all parts of the world, and in view of its esteem for the international treaties and pacts which are the main bases for organising the international relations, the Government of the Republic of Iraq has officially announced as per the above letter, addressed to the President of the Security Council, its readiness to refer the case to the International Court of Justice, as a neutral International Judicial Organisation in accordance with paragraph 2 of Article 36 of the Basic Regulation of the International Court of Justice, for looking into the legacy of Iran's unilateral announcement in considering the

.../Iraqi

Iraqi-Iranian Frontier Treaty concluded in 1937 as abrogated and inobjective, knowing that the Government of the Republic of Iraq considers the said Treaty as valid, effective and binding both countries in accordance with the principles of the International Law.

If Iran is desirous of respecting the International pacts and the Charter of the United Nations as it claims, then it must show its good intentions by taking a similar attitude and let the International Court of Justice deal with the dispute fabricated by Iran.

The Ministry avails itself of this opportunity to express its highest consideration and esteem.

Her Britannic Majesty's Embassy,
BAGHDAD.

NEQ 3/324/1

19/8/69.

- 3 -

Al-Nur:

Saiyid Tariq Wajdi, Director of the Israel Boycott Bureau at the Ministry of Foreign Affairs on his return from the 28th Conference of Boycott Liaison Officers in the United Arab Republic, announced that the Conference discussed 75 items mostly related to the application of boycott provisions.

The Conference has also removed 50 companies from the black list.

Foreign Vessels in Shatt al Arab:

Saiyid Wajdi also added that Iraq proposed at the Conference that vessels entering the Shatt al Arab be obliged to produce their books to the Iraqi authorities as proof that these ships had not called at Israeli ports. This proposal was approved and a notification to this effect was issued to world shipping companies.

=====

This could be serious if it affect ships bound for Iran (Khorramshahr) as they are possibly vessels that have visited Israeli. But let us see what happens first.

Same Sign. AMTD. 9.9.

PMMA 8/9.

*Muhammad Ali 8/9
AMTD (My notes)*

*Don P.A.
4 no obs.*

*M PMMA
4/9*

NEQ 3/324/1

Lottery loan The Finance Minister announced on 28th August that the Government had decided to float an internal lottery loan of 2,000 million drachmas, all proceeds from which would go for the public investment programme. (Athens Armed Forces in Greek 19.00 GMT 28.8.69)

Elevsis shipyards On 27th August Papadhopoulos inaugurated the Elevsis shipbuilding yards - a project undertaken jointly by the Commercial Bank, the Ionian and Popular Bank and the Investment Bank - which will cost 1,000 million drachmas. In his address the Premier called on Greek shipowners to make use of the services of Greek shipbuilding yards. (Athens in Greek 19.30 GMT 27.8.69)

IRAN Training in USSR of Isfahan steelworkers Another 78 Iranians who are to work at the Isfahan steelworks are coming for training at Soviet factories. In all 640 are to have training in the USSR. (Tass in English 14.08 GMT 30.8.69)

Agricultural co-operation with USSR Six varieties of wheat developed in [Soviet] Azerbaijan are to be tested in Iran. They have been selected by Rezvani Hasan Ali, head of the Seed Cultivation Board of the Iranian Ministry of Agriculture, who is at present visiting Azerbaijan. (Tass in English 12.50 GMT 25.8.69)

An Iranian-Soviet Cultural Relations Society delegation led by Abdol Hossein Massoud-Ansari, a former Iranian Ambassador to the USSR but now chairman of the Board of the Iranian-Soviet Cultural Relations Society, arrived in Moscow on 30th August for an 18-day visit. (Tass in English 15.55 GMT 30.8.69)

Iraqi ban on imports from Iran See Iraq.

Nuclear radiation class On 1st September 25 experts from 10 countries began a training course in Tehran on how to deal with atomic radiation accidents. (Tehran in Persian 10.30 GMT 1.9.69)

IRAQ Relations with USSR The Agriculture Minister, Atiyah, the Soviet Fisheries Minister, Ishkov, and the delegations taking part in the current Soviet-Iraqi talks on fishing co-ordination, toured Nasiriyah Province and the Aghwar area on 27th August to inspect fish marketing methods and fish resources. They also visited Basrah Province. (Baghdad in Arabic 19.00 GMT 27.8.69)

CUT for file

Ban on imports from Iran (Excerpts) The Economy Minister, Fakhri Qadduri, issued a decree last night banning imports from Iran to prevent Israeli and other boycotted goods from entering Iraq. The decision reads: ... Imports from Iran are banned as from 26th August 1969. This ban also covers the import of commodities of Iranian origin or sent from other countries via Iran. It does not affect goods already dispatched or arriving in Iraq before the effective date of this decision, or credits already opened and still effective before the date of this decision. (Baghdad in Arabic 04.15 GMT 26.8.69)

CUT for Iraq/Iran file.

Turkish property The deadline by which Turkish citizens must have sold their immovable property in Iraq has been extended by one year to 15th August 1970. An Iraqi law passed in 1961 requires all foreign nationals to sell their immovable property except a house which they occupy or a place of business. (Ankara in Turkish 17.00 GMT 25.8.69)

Teachers for Saudi Arabia The Education Ministry has announced that 105 teachers have been named to teach in Saudi Arabia. (Iraqi News Agency in Arabic 10.05 GMT 29.8.69)

ISRAEL Economic agreement with Turkey Agreement has been reached in Ankara on the establishment of a joint Israeli-Turkish chamber of commerce, following talks between economic delegations from the two countries. The head of the Israeli delegation said on 25th August that while the volume of trade between Israel and Turkey had declined sharply over the past few years, useful measures were now being taken to alter this situation. (Israel in English 05.00 GMT 26.8.69)

NEQ 3/324/1

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(A, D)

E. IRANIAN-IRAQI RELATIONS

Iraqi Concern over River Diversion Plans

Baghdad home service in Arabic 17.00 GMT 29.7.69

Excerpts from report:

According to a report by the Iraqi News Agency correspondent in Basrah, the agent Iranian authorities intend to revive the idea of a plan to divert the Karun river. They intended to put the plan into effect in 1964 by building a dam on the river in the area of (?Al-Bozah), between the (?Sulayj) canal - which flows into the Arabian Gulf - and the (?Muhammura) bridge...

The reporter adds that the agent Iranian rulers base their plan on aggressive intentions to harm Iraq's economic interests. The reporter says diversion of the river would affect navigation in the Shatt al-Arab because the water level would drop, rendering the Shatt al-Arab unable to receive large oil tankers and other merchant ships. Plantations on the banks of the Shatt al-Arab, particularly date palm plantations, would be ruined...

The correspondent concludes: To assert their hostility towards Iraq and to avenge the agents crushed by the Iraqi revolution, the Iranian authorities do not hesitate to engage in any conspiracy prejudicial to the interests of Iraqis or of our Arab people in usurped Arabistan. The Iranian authorities are doing this on orders from their imperialist masters.

Iran's Attitude to Fida'i Organisations

Baghdad home service in Arabic 11.30 GMT 1.8.69

Excerpts from report:

... Reports from Tehran say that the lackey Shah's court on 30th June issued secret order No. 980 banning any form of activity by the Palestinian fida'i organisations in Iran and banning any form of support for these organisations in Iran or abroad. This includes the collection of donations, lecturing on the Palestine question, and the distribution of Palestine Armed Struggle Command statements.

The Shah's court described the Palestinian struggle as a terrorist movement. The lackey Shah's court also banned the use of Iranian means of transport by Palestinians, whatever documents or passports they carry...

Despite these arbitrary measures, Tehran reports add, there is large-scale secret activity in Iran in support of the Palestinian fida'iyyin...

Reports from the Iranian capital say that the Iranian Government on 12th June received three modern fishing boats as a gift from Israel. These boats are supplied with fish canning devices. The reports add that four Israeli industrial establishments were recently opened in Hamadan, in addition to three establishments in Abadan for the production of electronic equipment. All were considered as a gift from the Israeli rulers to the agent rulers of Tehran.

They add that Iranian and Israeli Intelligence officials are exchanging visits on a large scale. The number of Zionist officers and experts serving in the Iranian army, air force and artillery has increased considerably...

'Ettela'at' on "Anti-Islamic Conspiracy" in Iraq**Tehran home service in Persian 16.30 GMT 2.8.69****Excerpts from broadcast version of leader:**

An anti-Islamic conspiracy is now being hatched in Iraq. Men of religion, especially religious leaders, are playing an important part in exposing the conspiracy. The Ba'thists' aggression against the holy religion of Islam, their disrespect to men of religion, is provoking public opinion and reopening old wounds which caused past calamities...

We can see now that the Iraqi Government's violence against Iranian pilgrims and Iranians living in Iraq was just a prologue to a vast anti-Islamic programme. Political problems were used just as an excuse to cover the nature of that programme. Now, however, the programme is being carried out at a higher level - that of leading men of religion.

There is nothing new about the animosity of the Ba'th Party and its agents towards Islam. The Ba'th organisation is trying to substitute political solidarity for religious solidarity in the Arab countries and eliminate Islamic influence in Arab political organisations. For the Party's political interests and its social and administrative aims contradict Islamic principles and laws, and as long as the Arab countries are influenced by Islam and the Qur'an, the Ba'th Party will not be able to achieve its objectives. Therefore, whenever the Ba'thists come to power in an Arab country, they use their power against Islam. Iraq itself during its republican regime has often been the scene of bloody clashes between Ba'thists and supporters of Islam.

Previous Iraqi Governments, however, though lenient towards the Ba'thists, prevented their extremism. But the cowardice of the present Government - which has no base among any political, religious, tribal or trade union groups and is, therefore, ruling dictatorially - has provided the Ba'thists with a suitable opportunity to stage an open campaign against Islam and men of religion...

[Note: The last E Appendix on this subject was published in ME/3129.]

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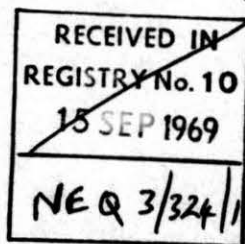


BRITISH EMBASSY

TEHRAN

10 September, 1969.

(3/40)



Stm 139
Reg
in Hinchcliffe *RUUM 15/9*
AM 8/4/11 (see endo.)
UN (see) 22/9 (172) *1.2*
27A

Dear Donald,

Iran, Iraq and the Shatt al-Arab

Please refer to Peter Tripp's letter NEQ 3/324/1 of 18 August to Donald Murray.

2. With the authority of Tripp's letter, Murray gave Fartash a copy of the (amended) paper on rivers forming international boundaries to the sea, and had a short general talk about Iran/Iraq relations on 30 August.
3. Fartash was preoccupied with the Iraqi decision, announced on 27 August, to ban the entry into Iraq of all goods originating in or passing through Iran. The trade figures were heavily in Iran's favour: about Rls. 420 million of exports to Iraq, compared with Rls. 41 million of imports. Although the ban affected all goods arriving in Iraq from Iran, Fartash was not yet clear whether goods transitting Iraq were also affected - though this was of lesser concern as Iraq was not a big transit route for Iran. The Iranian Government was taking this move very seriously. It was a clear breach of the 1967 Irano/Iraqi trade agreement which, however, the Iraqis had not said they were abrogating. Consequently Iran's next move would be to propose a meeting of the mixed commission envisaged in this agreement. (He did not, however, mention Iran's impending move in the United Nations.)
4. Fartash added that ~~the~~ new move clearly showed that the present Iraqi Government did not wish to have an improvement in relations, and this made it more likely than before that the Iraqis would raise the Shatt question in the course of the General Assembly. Murray thereupon spoke in gentle terms as authorised in Tripp's letter, that it would be a pity if there was any mention of the British in the Iranian reply, since we had more important things on which we needed to work together in the U.N., e.g. Bahrain. He did not labour the point, and Fartash was quite relaxed.

D. J. Makinson, Esq.,
Near Eastern Department,
F.C.O.



5. We doubt incidentally whether Fartash's description of the present flag flying arrangements (Donald Murray's letter 3/40 of 4 August to Peter Tripp) was accurate. I enclose a copy of a letter from Derek Burden which sets out the position, and from which it is clear that no-one in Tehran, not even Gray Mackenzies, knew precisely what was happening.

6. Murray reminded Fartash that Peter Hayman, whom he recalled from the Secretary of State's visit in May, would be Mr. Stewart's principal adviser at the General Assembly. As Fartash himself was going there, he might like to make contact. Fartash noted this. It has subsequently been announced, however, that Fartash has been appointed Ambassador in Copenhagen (I am writing to you separately about this) and so it seems unlikely that he will be going to the General Assembly after all.

Yours ever,

Michael

(M.C.S. Weston)

Copies to: Chanceries at: Baghdad (*with enclosure*)
Cairo (*without enclosure*)
Washington "
Amman "
Moscow "
Paris "
Bahrain Residency "
UKMIS, New York. "

CONFIDENTIAL



BRITISH CONSULATE,
KHORRAMSHAHR

1 September, 1969

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Dear Donald,

Irano-Iraqi Relations

Thank you for your letter 3/40 of 18 August about your conversation with Fartash on the Shatt al-Arab position. Either the M.F.A. are suffering from considerable self-delusion or are extremely badly informed of the local situation because their version of the flag-flying position bears little relationship to reality; the Gray Mackenzie version is more accurate, if also a little out of date.

2. The position here is, in fact, virtually one of pre-crisis normality and, if anything, has eased since we last reported on the subject (e.g. my letter of 18 May and O'Hara's of 14 July). Non-Iranian ships (except those under Iranian charter) coming to Khorramshahr are in all cases under Iraqi pilotage and all fly the Iraqi flag in the courtesy position from the moment they pick up the pilot at the mouth of the Shatt until they take on board the Iranian Berthing Master immediately opposite Khorramshahr jetty. Only then do they hoist the Iranian flag. Except on infrequent occasions, and these are for normal operational reasons, ships do not any longer even proceed up-stream beyond Khorramshahr into wholly Iraqi waters before turning to approach the port from the north (as reported by Gray Mackenzie). When leaving Khorramshahr, ships lower the Iranian and hoist the Iraqi flag when taking on the Iraqi pilot in mid-stream immediately opposite the jetty. At Abadan (see my letter of 11 May) Iraqi Pilots bring ships right alongside the jetty and only when a ship is berthed is the Iraqi flag exchanged for the Iranian. Similarly, when leaving Abadan the Iranian flag is lowered as soon as the Iraqi pilot takes a ship off the jetty.

3. Fartash told you that non-Iranian ships were free to use what pilots they wished. As far as I know, only Iraqi pilots are on offer! Apart from the one or two Iranian Navy officers who have brought up the Arya Line and Arya chartered ships, there are still no trained Iranian pilots available and shipping agents automatically arrange for Iraqi pilots to pick up their ships at the outer bar.

4. The only real change therefore from the pre-crisis position is that Iranian-flag ships and Iranian chartered ships now go up and down stream with an Iranian Navy officer acting as pilot and flying the Iranian flag. All other ships entering the Shatt (and of course these represent the great majority), whether bound for Iranian or Iraqi ports, take an Iraqi pilot and fly the Iraqi flag.

5. I would not quarrel with Fartash's assessment that the tension has dropped significantly in the last two months. Certainly, locally there is a considerable relaxation; no doubt this is partly due to the general apathy associated with high summer here but it is also attributable to the complete lack of incident on the river in the last two months or so and the absence of any provocation on the Iraqi side. As I say, shipping is moving quite freely and although Iranian ships are flouting Iraqi demands about flag flying, the passages of these ships are infrequent and have in no case produced any real reaction from Iraq. The military are no longer much in evidence and one seldom sees troops in the streets at all. There is of course still a military presence of sorts,

D. F. Murray, Esq.,
British Embassy,
Tehran

- 1 -

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particularly on the Shatt South of Abadan and around the airport, but the gendarmerie now seem to have taken over operational control and all the local forces remaining are reported as being grouped into a Gendarme Operational Group under the command of Brigadier Rahmani. At a celebration of the 20th ~~anniversary~~ anniversary in Abadan the Brigadier took the salute at a March Past which included 4 Russian wheeled APCs, 17 American tanks, and 6 recoil-less guns. Apart from the half dozen anti-aircraft tanks dug in around the airport this probably represents a very large proportion of the local military strength.

Curlew
Dennis
(D. F. Burden)

E. IRANIAN-IRAQI RELATIONS

"Iranian Infiltrators" on Baghdad Television

(a) Baghdad home service in Arabic 22.10 GMT 13.9.69

Text of report:

Our armed forces have repelled an Iranian infiltration attempt and killed 30 people and captured 14 others. The prisoners confessed in a television interview tonight that they were Iranian regular soldiers and members of the Charik [irregular] forces. Baghdad television also showed a large quantity of arms used by the infiltrators and samples of the radio sets and equipment seized. The Director-General of Radio and Television, who directed the interview, warned against any more attempts to infiltrate into Iraq and said that death would await adventurers, reactionaries and individuals who illegally infiltrated into Iraqi territory. The Director-General began the interview by explaining the valiant nature of our people and said: Our people are stronger than all enemies. Our great revolution builds with one hand and fights with the other. Our armed forces have dealt a crushing blow to Iranian reaction's collaboration with the agent Barzani and US and Israeli intelligence services to send armed infiltrators to Iraq.

(b) Iraqi News Agency in Arabic 10.51 GMT 14.9.69

Text of report:

Baghdad: The Iraqi Armed Forces recently foiled an Iranian infiltration attempt in an Iraqi village - an attempt in support of Barzani. The forces captured 14 soldiers and NCOs of the Iranian irregular Charik forces and killed 30 others in a clash in a remote village in Northern Iraq.

Interviewed on Baghdad television, the prisoners revealed how they arrived at the village and explained their mission. A large quantity of the infiltrators' weapons and radio and military equipment was also shown.

Signals Lance-Corporal Abbas Mahmudi, one of the prisoners, said he had received orders to go to Kermanshah. Then he was sent to (?Mansur Meh) village with a written message. The commander of the (?Mansur Meh) battalion, Maj. Khurayji, gave him three radio units to carry to (?Qul Zahah). He added that he was a member of a force comprising 44 men of the Charik forces fully equipped with weapons and military and food supplies. He said that when they reached the end of a paved road, the force had continued on a rough mountainous road - a road which, he claimed, was not familiar to him.

He said that two members of the Barzani gang had met them and acted as guides. They had also brought mules to carry the arms and equipment. After a long walk they had arrived at a village, at which they stopped to rest.

The following morning, he continued, there was a clash with Iraqi forces who had surrounded the village. Thirty Iranian infiltrators were killed and 14 were taken prisoner.

Answering questions during the interview, the lance-corporal disclosed his role in training members of the Charik force in the use of radio equipment. He said: They did not tell me the truth and I was deceived. He described his military superiors as cheats and traitors. He said the Iranian people were angry at the present regime. They refused to attack over the graves of Imams in this holy Islamic country. Those who provoked this country must be wiped out, he said. He said that the Iraqi Armed Forces and people had treated him well and enabled them to visit the Holy Places.

Another soldier repeated the previous prisoner's story. He said: At 00.30 we arrived at a village which we did not know was an Iraqi village. In the morning we heard someone shouting 'War! War!'. When we got up we found ourselves surrounded. Within half an hour 30 were killed. The rest of us surrendered to the Iraqi forces. We have learned that we came to help Barzani's people. The Iranian Government involved us in this affair. I, as a soldier, take and obey orders, but they are traitors.

He said he did not know there were military concentrations on the Iraqi borders but discovered this after the infiltration attempt. He said: I am worried. This country has Holy Places which should not be attacked. He asserted that the reactionary Iranian Government and the Shah were traitors and servants of US imperialism and Zionism.

Appealing to the Iranian Army and people, he said: Instead of fighting the Muslim people of Iraq, we should devote our efforts to fighting Israel, the enemy of Islam. He warned all his colleagues to beware of the conspiracies of their Government, which has involved us in such a situation.

Lance-Corporal Ali Kavianinezhad said: We did not know we were in an Iraqi village. In the morning we were surrounded and a clash took place in which 30 were killed and the rest of us were taken prisoner. The corporal, who is from the mechanised units in Khorram Abad, said: I asked Corporal Rahmani why we were changing our uniforms. He said they wanted to standardise uniforms. He explained that the Charik forces were a military organisation in which personnel receive two months of training, after which they were sent on various missions, particularly infiltration into Iraq. The force's headquarters was in Kermanshah. In a word of advice to the Charik forces, the soldier said: No Muslim soldier opens fire on another Muslim soldier.

In Brief

More refugees from Iraq (Text) Eleven more Iranian residents of Iraq have returned via the Khosravi border crossing to Iran. They have joined other Iranians driven out of Iraq in camps set up for them in Kermanshah. (Tehran in Persian 16:30 GMT 14.9.69)

[Note: The last E/Appendix on this subject was published in ME/3151.]

Near Eastern Dept.

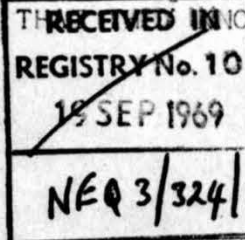
D. H. W. 115



NE-
B19 TEHRAN DENIES KNOWLEDGE OF BORDER CLASH: BEIRUT REPORT
(WITH B37 Y'DAY)

(BEIRUT RADIO) IN TEHRAN THE INFORMATION AND FOREIGN MINISTRIES AND THE CHIEF OF STAFF'S OFFICE CONTINUE TO STATE THAT THEY KNOW NOTHING ABOUT AN ARMED CONFRONTATION BETWEEN IRANIAN AND IRAQI FORCES, REPORTED BY BAGHDAD RADIO. THE SOURCES ADD THAT THEY NOW NOTHING OF ANY ATTEMPT TO INFILTRATE IRAQ.

HF BBC MON 14/9 JL



B19 DENIES 2: INCIDENT POSSIBLE

IRANIAN MILITARY CIRCLES, HOWEVER, ADMITTED THAT ARMED PATROLS

ARE OPERATING ALONG THE BORDERS AND THAT AN INCIDENT COULD POSSIBLY OCCUR. HOWEVER, NO REPORT HAS REACHED TEHRAN OF ANY EXCHANGE OF FIRE

WITH IRAQI FORCES IN THE BORDER AREAS.

END BBC MON 14/9 JL (KY) 13

X
B24. CAPTURED IRANIANS ON TV: IRAQI NEWS AGENCY (WITH B37 Y'DAYS)

NE
(IRAQI NEWS AGENCY) BAGHDAD: THE IRAQI ARMED FORCES RECENTLY FOILED AN IRANIAN INFILTRATION ATTEMPT IN AN IRAQI VILLAGE, AN ATTEMPT IN SUPPORT OF BARZANI. FOURTEEN SOLDIERS AND 30'S OF THE IRREGULAR IRANIAN (?AL-SHARIK) FORCES WERE TAKEN PRISONER AND 30 OTHERS KILLED IN A CLASH IN A REMOTE VILLAGE IN NORTHERN IRAQ.

MF BBC MON 14/9 JL 1520



B24. IRANIANS 2: FULLY-EQUIPPED UNIT

INTERVIEWED ON BAGHDAD TELEVISION, THE PRISONERS REVEALED HOW THEY HAD ARRIVED AT THE VILLAGE AND THEY EXPLAINED THEIR MISSION. SIGNALS L.CPL. ABBAS MAHMUDI, ONE OF THE PRISONERS, SAID HE HAD RECEIVED ORDERS TO GO TO KERMANSHAH. THEN HE WAS SENT TO (?MANSUR MEH) VILLAGE WITH A WRITTEN MESSAGE. THE COMMANDER OF (?MANSUR MEH) BATTALION, MAJ. KHURAYFI, GAVE HIM THREE RADIO UNITS TO CARRY TO (?QUL ZAHAB). MAHMUDI SAID HE WAS A MEMBER OF A FORCESK COMPRISING 44 MEN OF THE (?AL-SHARIK) FORCES WHO WERE FULLY EQUIPPED WITH WEAPONS AND MILITARY AND FOOD SUPPLIES.

MF BBC MON 14/9 JL

B24 IRANIANS 3: MET BARZANI MEN

HE SAID THAT WHEN THEY HAD REACHED THE END OF A PAVED ROAD THEY CONTINUED ON A ROUGH MOUNTAINOUS ROAD, A ROAD WHICH HE CLAIMED WAS NOT FAMILIAR TO HIM. TWO MEMBERS OF THE BARZANI GANG HAD MET THEM AND ACTED AS GUIDES. THEY HAD ALSO BROUGHT MULES TO CARRY THE ARMS AND EQUIPMENT. AFTER A LONG WALK THEY HAD ARRIVED AT A VILLAGE, WHERE THEY STOPPED TO REST.

THE FOLLOWING MORNING THERE HAD BEEN A CLASH WITH IRAQI FORCES IN WHICH 30 IRANIAN INFILTRATORS WERE KILLED.

MF BBC MON 14/9 JL

B24 IRANIANS 4: WELL TREATED IN IRAQ

ANSWERING QUESTIONS DURING THE INTERVIEW, THE LANCE-CORPORAL DISCLOSED HIS ROLE IN TRAINING MEMBERS OF THE (?AL-SHARIK) FORCE IN THE USE OF RADIO EQUIPMENT. HE DESCRIBED HIS MILITARY SUPERIORS AS CHEATS AND TRAITORS.

HE SAID THAT THE IRAQI ARMED FORCES AND PEOPLE HAD TREATED HIM WELL AND ENABLED THEM TO VISIT THE HOLY PLACES.

MF BBC MON 14/9 JL

B24 IRANIANS 9: DID NOT KNOW THEY WERE IN IRAQ

L. CPL. ALI KAVIANINEZ SAID THEY HAD NOT KNOWN THEY WERE IN AN IRAQI VILLAGE WHEN THEY WERE SURROUNDED AND 30 OF THEM WERE KILLED AND THE REST TAKEN PRISONER.

THE CORPORAL, WHO IS FROM THE MECHANISED UNITS IN KHORRAM ABBAD,

B24 IRANIANS 3: MET BARZANI MEN

HE SAID THAT WHEN THEY HAD REACHED THE END OF A PAVED ROAD THEY CONTINUED ON A ROUGH MOUNTAINOUS ROAD, A ROAD WHICH HE CLAIMED WAS NOT FAMILIAR TO HIM. TWO MEMBERS OF THE BARZANI GANG HAD MET THEM AND ACTED AS GUIDES. THEY HAD ALSO BROUGHT MULES TO CARRY THE ARMS AND EQUIPMENT. AFTER A LONG WALK THEY HAD ARRIVED AT A VILLAGE, WHERE THEY STOPPED TO REST.

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MF BBC MON 14/9 JL

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THE CORPORAL, WHO IS FROM THE MECHANISED UNITS IN KHORRAM ABBAD, SAID: I ASKED CORPORAL RAHMANI WHY WE WERE CHANGING OUR UNIFORMS AND WAS TOLD THEY WANTED TO STANDARDISE UNIFORMS.

MF BBC MON 14/9 JL

B24 HE EXPLAINED THAT (?AL SHARIK) FORCES WERE A MILITARY ORGANISATION IN WHICH PERSONNEL RECEIVE TWO MONTH'S TRAINING, AFTER WHICH THEY ARE SENT ON VARIOUS MISSIONS, PARTICULARLY INFILTRATION INTO IRAQ. THE FORCES'S HEADQUARTERS IS IN KERMANSHAH.

END BBC MON 14/9

JL 1537

TOP COPY

178

SAVING TELEGRAM

FROM NEW YORK TO FOREIGN AND COMMONWEALTH OFFICE

(United Kingdom Mission to the United Nations)

By Bag

Lord Caradon

No. 191 Saving

4 October, 1969

UNCLASSIFIED



Addressed to Foreign and Commonwealth Office telegram No. 191 Saving of 4 October, repeated for information Saving to Tehran, Baghdad, Washington, Kuwait, Bahrain (Residency).

General Debate: Iran/Iraq (Shatt-al-Arab)

The Shatt-al-Arab dispute has been aired at considerable length. Following are verbatim extracts from a speech by Zahedi (Iran).

"The Government of Iraq persists in interfering with the free navigation of vessels bound to Iranian ports on Shatt-al-Arab, the river that flows between the two countries to the Persian Gulf. On 15 April of this year, Iraq went so far as to threaten to board vessels sailing to Iranian ports and flying the Iranian flag. It further threatened to use force should the Iranian merchant vessels not comply with its demands."

"Iraq bases its claim of absolute sovereignty over Shatt-al-Arab on a treaty imposed by colonial interests and which Iraq itself has for thirty-two years refused to carry out."

"from the general tone of the 1937 Treaty, and the real significance of the Protocol attached to it, it is clearly and fully understood that Shatt-al-Arab is not and cannot be under the absolute sovereignty of Iraq."

Iraq, by its refusal to carry out its commitments under the 1937 Treaty, has forfeited any rights it acquired under that Treaty, which, moreover, due to its colonialistic aspect is null and void. Consequently, the boundary set in Shatt-al-Arab reverted to mid-channel or the Thalweg. The issue between the two Governments is whether Shatt-al-Arab should be a barrier or a bridge. Iran has offered to work out with Iraq a treaty for co-operative administration of the Shatt-al-Arab with free navigation throughout the entire river.

We have informed the President of the Security Council of our position, and have proposed a number of constructive alternatives for the peaceful settlement of this dispute in accordance with Article 33 of the United Nations Charter."

3. Following are verbatim extracts from speech by Al-Shaikhly (Iraq):-

"This is the problem which has been artificially created by our neighbour, Iran, by her unilateral declaration abrogating the valid and legally binding Boundary Treaty of 1937. The unilateral denunciation of this Treaty has no basis or support in law or fact."

"..once the Treaty was ratified and legal procedures were finalized, Iraq abided by its provisions in compliance with its policy of honouring its international obligations and recognition of the sanctity of Treaties and Conventions."

"The unilateral denunciation of the Treaty was accompanied by massive demonstration of troops, naval and air force, along the boundaries of the two countries. To make matters worse, military forces were actually used to violate Iraqi sovereignty, contrary to para. 4 of Article 2 of the U.N. Charter. Furthermore, Iran deliberately transgressed rules and regulations of Iraqi Ports Authorities, endangering navigation in Shatt-al-Arab."

The Iraqi-Iranian Boundary Treaty of 1937 is valid and binding on both parties, and any measure which was, or would be taken contrary to its provisions, is null and void."

"My Government, however, motivated by the sincere desire of settling any dispute peacefully which may arise regarding the application of the provisions of the Treaty, declares its readiness to accept the jurisdiction of the International Court of Justice."

4. Various repetitive rights of reply followed. Khalaf (Iraq) remembering that Zahedi stated that Iraq refused for 32 years to carry out the provisions of the Treaty wondered why at this stage Iran had found it fit to declare that Treaty null and void. For 32 years the Treaty had been very much in operation. He asked "If Iran is sincere in its claims, why does not Iran sit and talk with us on the basis of that Treaty and its implementation, or why does not Iran go with us to the International Court of Justice?"

5. Vakil (Iran) claimed Iraq had not entered into negotiations on navigation which were obligatory under the 1937 Treaty thus rendering the whole Treaty null and void. He referred to Iraq's abrogation of a trade agreement with Iran one month ago. Iran had offered to conclude a treaty of navigation, and in the event of failure to agree they would accept an ICJ verdict, but not on the basis of the 1937 Treaty which Iraq broke. As to the troop demonstrations, this was in self-defence after a similar move by Iraq.

6. Khalaf replied that only the ICJ was competent to consider the question. The Security Council was not entitled to interpret a treaty. There were two kinds of treaty; permanent ones (including frontiers) could not be unilaterally abrogated. No convention on navigation had been concluded because Iran wanted to arrogate the rights to itself.

7. Vakil replied, asking who had appealed to the Security Council first, and claiming that Iran had endeavoured (without success) to negotiate. Why therefore should Iran not ask the Secretary-General to nominate a mediator?

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N. EASTERN D. N. AFR. D.
ARABIAN D. U.N.D.

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Reg & Co

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REGISTRY No. 10
31 OCT 1969

CONFIDENTIAL

CYPHER/CAT A

PRIORITY TEHRAN *NEQ 3/324/* TO FOREIGN AND COMMONWEALTH OFFICE

TELEGRAM NUMBER 912 30 OCTOBER 1969

CONFIDENTIAL.

ADDRESSED TO FCO TEL NO 912 OF 30 OCTOBER. RFI TO BAGHDAD
AND AMMAN AND SAVING
TO WASHINGTON, CAIRO, JEDDA, KUWAIT, BAHRAIN RESIDENCY.

IRANO/IRAQI RELATIONS.

JORDANIAN FOREIGN MINISTER ARRIVED HERE AT SHORT NOTICE ON 28
OCTOBER AND LEAVES TOMORROW. HE HAS COME HERE AS INTERMEDIARY
BETWEEN IRAN AND IRAQ. THE SHAH TOLD ME LAST NIGHT THAT THE MINISTER
WAS REASONABLY OPTIMISTIC AND THAT IF IRAQIS HAD 'NOT GOT THE GUTS'
TO SETTLE THE FRONTIER ISSUE IRAN WOULD BE WILLING TO REACH
AGREEMENT WITH THEM OVER NAVIGATION ON THE SHATT AL-ARAB AND
LEAVE THE FRONTIER ISSUE IN ABEYANCE.

2. THE IRAQI AMBASSADOR TOLD ME THIS MORNING THAT HE THOUGHT THERE
WAS A CHANCE OF SOME IMPROVEMENT IN IRANO/IRAQI RELATIONS OR
THAT BY MUTUAL AGREEMENT RADIO PROPAGANDA ON BOTH SIDES HAD
CEASED FROM 26 OCTOBER. THE PRESS HERE HAS GIVEN
SOME PROMINENCE TO BIRTHDAY MESSAGE FROM PRESIDENT OF IRAQ.

FCO PASS BAGHDAD AND AMMAN AND SAVING TO WASHINGTON CAIRO JEDDA
KUWAIT BAHRAIN RESIDENCY.

SIR D. WRIGHT

[REPEATED AS REQUESTED]

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CONFIDENTIAL

179
TOP COPY

TELEGRAM SECTION
Room 124 K.C.S.
Communications Department

N.B. Lym

YTC/1
NEQ 3/324/1

Please send copies of the following telegram

191 SAVC from URMIS Nyk

TO:

Shatt-el-Arab dam

(Signed)

(Department)

(Date)

Action taken in Communications Department :

(Initials) (Date) 6/1

AFTER ACTION THIS FORM SHOULD BE SENT TO
THE APPROPRIATE ARCHIVES DIVISION FOR RETENTION

TOP COPY

EN CLAIR
BAGHDAD
TELNO. 915

TO FOREIGN AND COMMONWEALTH OFFICE	
RECEIVED IN	31 OCTOBER, 1969
REGISTRY No. 10	
- 3 NOV 1969	
NEQ 3/324/1	

180

UNCLASSIFIED

ADDSD TO F C O TELNO 915 OF 31 OCT RFI TO TEHRAN AND AMMAN
IRAQI/IRANIAN RELATIONS.

THE IRAQI NEWS AGENCY ON 30 OCTOBER QUOTED ON AUTHORITATIVE
SOURCE AT THE MINISTRY OF CULTURE AND INFORMATION AS SAYING THAT
IT HAD BEEN DECIDED TO STOP PRESS AND INFORMATION CAMPAIGN
BETWEEN IRAQ AND IRAN . THE SOURCE ATTRIBUTED THIS DECISION
TO THE EFFORTS OF AN "ARAB STATE " TO ACHIEVE A SOLUTION
TO THE CRISIS ON A JUST AND POSITIVE BASIS. (ABDUL MONEIM
RUFAL PAID A BRIEF VISIT HERE ON 25 OCTOBER) .

THE SOURCE ADDED THAT THIS STEP REAFFIRMED IRAQ'S DESIRE
FOR A CONTINUATION OF FRIENDLY RELATIONS BETWEEN THE PEOPLES
OF IRAQ AND IRAN .

MR. BALFOUR-PAUL

in
PMA
3/11

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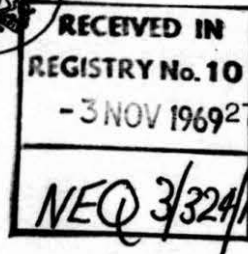
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N. AFR. DEPT.
DEF. POL. DEPT.
I.P.D.
I.R.D.
NEWS DEPT.
OIL DEPT.
P.U.S.D.
RES. DEPT.
U.N.D.
MOD (INTERNAL)

GGGGG

RESTRICTED

But no gladioli!

Mr. Mubarak 29/10
Mr. Acland 31/10
A.M.T.D. (re: news)
then reg. & P. & Q. of no. 10



British Embassy,
BAGHDAD.

October, 1969.

(181)

Dear Peter,

The Shatt al-Arab Dispute

You may be interested in some indication that the Iraqis are trying to take the heat out of the Shatt al-Arab dispute. President Bakr is reported in the press and on the radio as having sent a message of congratulations to the Shah on the occasion of the Iranian National Day; the message takes the usual form, not noticeably warm nor particularly mild. There was also, surprisingly, a good turn out of senior Iraqi officers at the Reception held by the Iranian Embassy; the senior officer present, General Shenshal Deputy Chief of General Staff, is in fact the senior Iraqi officer outside the Revolutionary Command Council. One of the Iraqi officers told the Defence Attaché that they were attending on the instructions of President Bakr. He added that this was a result of the Jordanian efforts at mediation which, he said, were meeting with some success.

2. The Iranians for their part had been in two minds whether or not to hold the reception in Baghdad, and the decision to do so was only taken three days before the event. The Iranian Ambassador, who returned to Baghdad especially for the reception, is now likely to be staying on here instead of returning to Tehran.

3. Iraqis as the present incumbents in the Shatt al-Arab clearly have good reason to lower the temperature. The immediate Iranian reaction seems to have been favourable but it remains to be seen whether they will make any concessions on points of principle.

Yours sincerely

M. K. Jenner

(M. K. Jenner)


P. R. M. Hinchcliffe, Esq.,
Near Eastern Department,
F.C.O.

c.c.

Chancery,
TEHRAN
AMMAN

RESTRICTED

minute ~~M. m. a. b. i. s. a~~
Euler



BAGYDAD.

NEQ 3/324/1

22 October, 1969.

182

(2/3)

2. I should be grateful for any information you, and the other recipients of this letter have on this subject.

(M. K. Jenner)

**A. J. Coles, Esq.,
DUBAI.**

C.C.
Political Agency:

AMU DHANI

DCMA

BAHRAIN

Consul General,
MUSCAT

Chanery, TEHRAN

Near Eastern Department
or Department.

Coming Confidential
Reference.....

W (182)

in Hincheyff ~~MM~~ 31/10

SAD. (P.T.P. 31/10. Mr. Walker 31/10

in Bathiscombe 31/10.

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NEQ 3/24/1

The "Free Baluch"

This a bit naive.

The persons who have most
to worry about from the
Baluch are of course the
Pakistanis.

Perhaps this will teach
them not to be quite
so "fellow Islamic" on
every subject.

A. M. M. M. M.

30.10.69

~~MM~~ x Pu x

Reg.

94

Coming Confidential

IV A) THE NEAR AND MIDDLE EAST

NEQ 3/324/1

11.00 GMT 27. 10. 69 - 11.00 GMT 28. 10. 69

Cairo on Abu Dhabi Meeting Cairo radio broadcast in its "Arabian Peninsula" programme of the "Voice of the Arabs" a dispatch from the Middle East News Agency correspondent in Abu Dhabi giving "details of the crisis caused by the British Commissioner" there. According to the dispatch, this crisis was responsible for the termination of the Amirate rulers' meeting. The dispatch reported Shaykh Saqr Bin Muhammad al-Qasimi, the Ruler of Ra's al-Khaymah, as saying that the way the British Political Agent had read Sir Stewart Crawford's letter to the meeting had been "disgusting" and that his conduct had been "devoid of all propriety". Shaykh Qasimi was further stated to have said that the message itself had been rejected by all at the meeting as "unacceptable interference in the internal affairs of the Arab Amirates". *

Lebanese Criticism of BBC Cairo radio's 18.45 GMT "Voice of the Arabs" press review quoted the Lebanese 'Ash-Sha'b' as accusing the BBC of having devoted a news bulletin "to the defence of Lebanon", and as declaring that the BBC had "tried to use recent events as a means of intriguing between Lebanon and the Arab world and of arousing the hostility of the Lebanese people towards the Arab world". *

The Lebanese Situation Beirut radio reported a statement by Rashid Karami acknowledging his responsibility to help solve the crisis, and one by Adil Usayran, the Minister of the Interior, expressing confidence at the course of events and underlining Lebanon's relations with "fraternal Syria" in particular and the other Arab States in general, which, he said, were "based on fraternity, friendship and love". *

"The Voice of Fatah" reported at 18.30 GMT that fighting was still going on, particularly at Suq al-Khan and the Hasbani bridge. It accused the "agent" Lebanese authorities of undertaking a campaign of arrests in Sidon. It said that a Lebanese soldier had been executed by firing squad for refusing to fire on the people at Majdal Salim. *

Iraqi Delegation in Amman Baghdad radio, commenting on the departure of a Ba'th Party delegation for Amman, said the visit was intended to assure "the strugglers at the front" that Iraq was placing all its resources at their disposal. *

Iran-Iraq Mediation by Amman On 25th October Baghdad radio reported the departure from Iraq of Abd al-Mun'im Rifa'i, the Jordanian Deputy Premier and Foreign Minister, "after a short visit". Reporting Rifa'i's return home later the same day, Amman radio said that his talks with President Bakr and the Iraqi Government had been "very satisfactory". On 26th October Amman radio said Rifa'i had received the Iranian Ambassador and had explained that the meeting was a continuation of the Jordanian Government's efforts to settle the Iraqi-Iranian dispute, and that there was "increasing hope of an understanding between the two sides". Baghdad radio said on 26th October that President Bakr had sent the Shah a message of congratulations on his birthday. Amman radio said on 27th October that Rifa'i was leaving for Tehran the following day for meetings with the Shah and senior Iranian officials "as part of the Jordanian Government's efforts to settle the Iraqi-Iranian dispute over the Shatt al-Arab". *

Report of MiGs for Iraq Nicosia broadcast the following report at 11.30 GMT on 27th October: "Our correspondent reports from Istanbul that 60 MiGs purchased by Iraq from Russia landed last Saturday at the airport to refuel. The aircraft were piloted by Russians." *

* For details see Appendices

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Relation
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2 PMMA 6/1

IV(B) - NON-ARAB AFRICA

11.00 GMT 27.10.69 - 11.00 GMT 28.10.69

Detention of Opposition Members in Kenya Nairobi radio reported that a Kenyan Government press statement, announcing the house arrest of Oginga Odinga, leader of the opposition Kenya People's Union, and his deputy Joseph Nthula and the detention of the six KPU MPs, said the anti-President Kenyatta disturbances in Kisumu were caused by the KPU leaders assisted by members of the party's youth wing. The house arrests and detentions had been ordered because the Government had decided to deal firmly "with the subversive elements who had been working with some foreign and unfriendly elements to destroy the peaceful running of the Republic of Kenya". A "Voice of Kenya" talk deplored the attack at Kisumu on President Kenyatta, the man who was father of the nation and who had fought for Kenya's unity. The responsibility for the disturbances lay "squarely on the shoulders of the heralds of unrest and misguided loyalties whose leaders are now in detention". *

Attempt to Overthrow the Government in Zanzibar First Vice-President Karume, according to a Zanzibar radio report, said he supported the action taken against 13 persons convicted of treason; four had been sentenced to death and the remainder to 10 years' imprisonment each. Karume had said this, the radio reported, at a rally in Zanzibar; he had defended the sentences and called on Zanzibaris to expose saboteurs who wished to destroy the nation for their own personal gain. The Zanzibar radio report did not name the 13 persons. *

Kampala radio said that Karume had told the rally the four sentenced to death had been shot; the plotters, in conjunction with people in mainland Tanzania, had attempted a counter-revolution. *

Somalia's Relations with Ethiopia Addis Ababa radio reported that the Ethiopian Premier had received a message from the new Somali regime stating it would follow closely the policies of the former Somali Government regarding relations between Ethiopia and Somalia. *

Denial of Egal's Attempted Suicide A Nairobi radio report said the ex-Premier of Somalia, Egal, had attempted to commit suicide on 26th October. *

At 10.30 GMT on 28th October Mogadishu home service reported a denial by a Somali Foreign Ministry spokesman of reports of Egal's suicide. "The Supreme Revolutionary Council wishes to make it categorically clear that these reports are totally false and unfounded ... Egal was in excellent health." *

Britain and the New Somali Regime The Mogadishu radio broadcast at 10.30 GMT on 28th October also reported the spokesman as saying the British Ambassador had conveyed a message to the Supreme Revolutionary Council stating the British Government was "prepared to continue the task of strengthening the cordial and friendly relations" with Somalia. (The East German news agency (22.10.69) reported that Ulbricht had, in a message, congratulated the Supreme Revolutionary Council and announced the GDR's recognition of the new Republic.) *

Mr. Foley's Visit to Zambia (ME/3214/11) The Lusaka radio commentator, Sol Ndhlovu, asked how Mr. Foley, the Parliamentary Under Secretary of State at the Foreign and Commonwealth Office, could excuse Britain for abstaining from voting at the UN on a Zambian resolution censuring Portugal on the grounds that there was insufficient evidence of Portuguese incursions available. The facts of Portuguese incursions, he said, were available in Zambia to the British High Commissioner. If the British Government "won't believe evidence collected by its own MPs, it could not be expected to believe that of an international committee which is being advocated for by Maurice Foley". *

Amnesty for Political Prisoners in Zambia (ME/3214/11) On 28th October Lusaka radio said, following the announcement by President Kaunda of an amnesty, 10 persons, convicted of arson and manslaughter during the Watchtower uprising in April in the Northern and Luapula Provinces, had been released. On 27th October the radio said that Mulumino Mundia, the former leader of the outlawed United Party and now Deputy Leader of the opposition African National Congress, had submitted a petition to the High Court seeking a declaration that his continued detention was illegal. *

* For details see Appendices

RECEIVED IN
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- 6 NOV 1969

NEQ 3/324/1

184

Near Eastern Department

Mr. ~~DeLand~~ - pl arrange for copies
reg to Baghdad
8/11.
9/11.

I attach a record of conversation during a courtesy call made by Mr. Afshar on Mr. Luard. One or two points came up relevant to references in recent telegrams (copies attached) on the U.A.E. and on Iraq/Iran border disputes. You may think it worth sending copies to Tehran and perhaps other posts. Copies have already been sent to Mr. Arthur and Mr. Hayman.

Hayman

(H. D. A. C. Miers)
Private Secretary to Mr. Luard

4 November 1969

c.c. Arabian Department

Copies of the Record of Conversation sent to Chanceries at:

Tehran,
Baghdad,
Bahrain,
Jedda

NED 6/11

Mr. ~~State~~
Mr. ~~McLarty~~
10/11

Mr. ~~Machin~~ 7/11
Mr. ~~Bathurst~~ (Arabic list)
then Pa if no ds

PMH
7/11.

CONFIDENTIAL

Record of conversation between the Iranian Ambassador
and the Parliamentary Under Secretary of State at the
Foreign and Commonwealth Office on Friday 31 October,
1969

Present

Mr. D.E.T. Luard, M.P.

H.E. Mr. Amir Khosrow
Afshar

Mr. H.D.A.C. Miers

Mr. Afshar explained that this was a courtesy call; therefore he did not wish to engage in official discussion of substantial matters. In subsequent conversation, however, he asked whether Saudi Arabia was playing an active part in support of the attempts of the members of the Union of Arab Emirates to reach agreement. Mr. Luard said that the Saudi Arabians were playing a passive rôle, but it was known that Saudi Arabia supported the U.A.E. But the same could be said of Iran. In the circumstances it might be helpful if the Iranians could make a public expression of their support or at least private assurances, because the hesitancy of some of the rulers to reach agreement at the recent meeting was perhaps partly due to an impression that Iran was hostile to the union. Mr. Afshar said that it was not possible for Iran to express public support for a Union which included Bahrain so long as the Bahrain question remained unsolved. Nothing prejudicial to the Iranian claim to Bahrain could be said until the expected solution had been actually reached. Mr. Afshar went on to indicate that after the Bahrain question had been solved Iran might wish for a conference to be held in which all states in the area bordering on the Gulf would discuss the Gulf's future. Iran had no present intention of suggesting such a conference but Mr. Afshar thought it might be useful eventually to hold one.

2. On the question of the Iranian/Iraqi border

/Mr. Afshar

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Mr. Afshar said that there was a possibility of progress on the Shat al Arab dispute as a result of Jordanian mediation. Anti-Iranian propaganda in Iraq had recently ceased. Basically, Iran wanted to settle all outstanding territorial disputes with Iraq together, whereas Iraq wished to settle the Shat al Arab question separately from outstanding questions on the land frontier. This was because Iraq was at a disadvantage on this latter question. When the Iraqis had occupied territory to which they were not entitled at a difficult time for Iran during the second world war, Iran had countered by occupying slightly larger pieces of Iraqi territory at a different place on the border. However, all the pieces of territory in question were small and of little importance: there should be no difficulty in resolving the dispute over them.

Foreign and Commonwealth Office.

4 November, 1969.

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BRITISH EMBASSY,
TEHRAN.

6 November, 1969



3/40

Dear Peter,

Iran/Iraq Relations

Tehran telegram No. 912 of 30 October reported what the Shah had had to say about the visit of the Jordanian Foreign Minister.

2. Today's KAYHAN INTERNATIONAL carries prominently on its front page the reports of what Rifa'i said in Amman on 5 November about Iran and Iraq having agreed in principle to begin direct talks on the Shatt. This is the culmination of a spate of rumours circulating around Tehran to the effect that Rifa'i made a good deal of progress during his visit. One version (the alleged source being Zahedi himself) even had it that Rifa'i had taken away in his pocket a protocol governing navigation in the Shatt for the next five years which already carried Iranian signatures and only needed the Iraqis to sign. This is certainly an exaggeration. I have quizzed Humayun Sami'i, the Political Director-General for Asia and Africa who has just stepped into Fartash's shoes. He was somewhat obscure but gave the impression (which bears out what we have heard indirectly from another source in contact with the Shah) that the most Rifa'i had done was to take away in writing a statement of the Iranian position with particular reference to a temporary agreement on navigation.

3. The point is that the Iranian position does not seem to contain anything new. You will remember from paragraph 3 of my letter of 4 August that the Iranians told the Jordanians early in the summer that they were prepared to consider a working understanding on navigation in the Shatt as an alternative to negotiations for a completely new frontier agreement. What is new is the clear implication that the Iraqis may now be prepared in principle to consider this. On the other hand Sami'i gave no indication to me that an early Irano/Iraqi meeting was on the cards, though he made a point of stressing the improvement in atmosphere in the last fortnight i.e. since the mutual cessation of offensive propaganda. In sum, I think the Iranians reckon that they have put up a reasonable offer for Rifa'i to sell to the Iraqis but they are still pretty sceptical about the sort of response they might get from Baghdad.

Yours ever

Donald

(D. F. Murray)

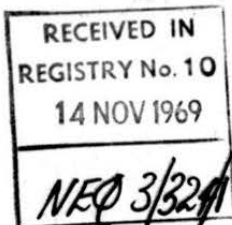
J. P. Tripp, Esq.,
Near Eastern Department,
F.C.O.

Cc. to:

Chanceries at: BAGHDAD, AMMAN, CAIRO, JEDDA,
KUWAIT, BAHRAIN RESIDENCY, WASHINGTON.

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British Consulate General,
Muscat.

11 November, 1969.

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Iraq and the Gulf

In your letter 2/5 of 22 October you ask for any information available to support the theory that Iraqi espousment of the cause of the Free Baluch Movement has the subsidiary aim of fomenting anti-Iranian feeling in the Gulf.

2. This theory does not apply to the Sultanate, since there is no real Iranian community here against which hostility could be directed. There is a handful of families of Iranian origin, but they have long since been fully assimilated and have become Omani citizens. There are a few Iranians working for PD(O) Ltd., but they work up-country and are thus unobtrusive. Only once have these Iranians got into trouble, and that was with Pakistanis and not Omanis.

3. However, the Iraqis could well use the Free Baluch Movement in other ways to create disorder in the Sultanate. There is a sizeable Baluch minority here, many having been settled for several generations. In general Baluchi and Omani rub along pretty well together, but there is some underlying hostility stemming from the fact that the Baluch tend to be more energetic and hard-working than the Omanis and thus get better-paid jobs. This is particularly so in the Sultan's Armed Forces where the superior drive of the Baluch, coupled with their tendency to re-enlist (whereas the Omanis usually leave after one engagement) has resulted in SAF now being well over 50% Baluch and most of the senior NCO and technical jobs being held by Baluch. Such a situation inevitably leads to friction and indeed, a year or two ago, an anti-Baluch pamphlet was circulated in the Suq claiming that the Baluch in SAF were planning a coup. Nothing came of this (because the author was known to be a crank) and the Intelligence people here know of no other political organisation either pro - or anti-Baluch.

4. The fact remains, however, that there is latent hostility between the two communities and if the Iraqis applied their minds to it they could bring it out into the open. This would cause civil disorder and, more important, might reduce the efficiency of SAF on whom the security of the country totally depends. We should therefore be grateful for any information that indicates that the Iraqis may be thinking along these lines.

(D.G. Crawford)

M. K. Jenner, Esq.,
BAGHDAD.

c.c. recipients of 2/5 of 22 October, 1969.

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Mr. Jenner Don 2 1/11
to the Pa.

PWA

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20 NOV 1969

**BRITISH POLITICAL AGENCY,
ABU DHABI.**

16 November, 1969.

(3/18)

NEQ 3/324/1

Iraq and the Gulf

Would you please refer to your letter
2/3 of 22 October to John Coles.

2. Neither we nor the Head of Special
Branch in Abu Dhabi have any knowledge of
Baluchi cells operating here.

(A. Reeve)

**M.K. Jenner, Esq.,
BAGHDAD.**

**Copies to: Political Agency, Dubai
Doha
Bahrain**

**Consul General Muscat
Chancery, Tehran
Near Eastern Department, FOO,
Arabian Department, FOO.**

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Reg
Mr. Makinson *23/12*

Mr. Hinchcliffe *6/12*

Reference

188
RECEIVED IN
REGISTRY No. 10
23 DEC 1969

NEQ 3/324/1

Shatt al Arab

Mr. Mirfakhrai called to say that he seen a report in a French news agency that the Iraqis had signed an agreement with Technoexport of the Soviet Union to consider the feasibility of building a dam on the Shatt al Arab with control valves. He said that there had also been a report in a Baghdad newspaper that the Iraqi port authorities had signed an agreement with Technoexport for the provision of Soviet experts to study shipping in the Shatt and to help build a shipyard on the Shatt. Mr. Mirfakhrai asked whether we had any information to confirm these reports and if so what our reaction was.

2. I said that we had seen nothing on these lines. I told him that there had been a report from Moscow about the signature of three contracts between Inoc and Technoexport, but that these dealt with economic and technical cooperation in the petroleum industry (Moscow telegram no. 1346). I said that I thought that the story about a dam across the Shatt was highly unlikely. It might be that there were plans to build dams either to prevent flooding or to increase irrigation but that these would be far higher up the Euphrates.

3. Mr. Mirfakhrai asked if we could let him know if any information to confirm what he had told me came my way. I said that we would keep in touch.

A.A.A.
(A. A. Acland)
22 December, 1969

Mr. Hoveyda also outlined Iran's discussions with Iraq over the Shatt el-Arab. The Iranians wished this to remain an international waterway. They never knew, however, what was happening with the Iraqis who were showing an increasing tendency to turn towards Moscow, for example in the purchase of arms. The Prime Minister suggested that the Iraqi arms build up was directed more towards Israel; Mr. Hoveyda commented that this was perhaps so but that the arms could also be used in the other direction.

Mr. Hoveyda said that increasing the income of the Gulf States from oil production could create new problems there and instability. Kuwait for example was supporting the closure of the Suez Canal. One day there could be a revolution in Kuwait similar to that in Libya. Moreover, the Gulf States used their funds in the Euro-dollar market and thus caused foreign exchange problems for the United Kingdom.

The Prime Minister asked how the Iraqis were getting on with the Kurds. Mr. Hoveyda said that the Iraqis were still having trouble with the Kurds. He wished however to come back to the point that it was essential for Iran to be strong. If peace came to the Middle East, Nasser would use his forces elsewhere, for example in the Red Sea, and would look covetously on the Gulf States. This meant that the Oil Companies must meet their production targets in Iran which they were not doing, and must market more Iranian oil. If they did not, the Iranian Government would have to reach

MORE/R

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1 DEC 3/324 1
29 DEC 1969
2. AM.T.D. (Ls Hayes o.r.)

BRITISH EMBASSY,
BAGHDAD.
18 December 1969

Dear Tripp, W.S. 1/1

S.S. Rowan More

When the Ambassador called on Dr. Daud on 15 December he told him that the Ministry had received a report from the port authorities at Basra that a British ship had refused to comply with the Shatt-Al-Arab Navigation Instructions, of which copies had been circulated to Diplomatic Missions in May. The offender was s.s. Rowan More, registered in Liverpool, owned by Johnston Warren Lines Ltd. It had entered the Shatt on 2 December, apparently en route for Khorramshar, and had refused either to take on board an Iraqi pilot, or to fly the Iraqi flag, or to submit to any kind of inspection. It had been allowed to continue its journey with a warning that this would be taken up with the authorities.

2. Dr. Daud said this was the first occasion on which a British ship had not complied with the instructions. At this stage he was not putting the Government's complaint in writing, but a Note would probably follow soon.

3. You may wish to obtain comments from the owners about this incident.

Yours ever,
[Signature]
for (D. F. Hawley)

J. P. Tripp, Esq.,
Near Eastern Department,
F.O.O.

c.c. J. K. T. Frost,
Shipping Policy Division,
Board of Trade,
John Adam Street,
W.C.2.

I have discussed w. Mr
Cochlin who will take
this up w. the owner. It
may be the ship is on charter
to Arga (Iranian) lines
a. i. not susceptible to
Iraqi pressure.

31.12.

3/2

12.11

CYPHER/CAT A

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IMMEDIATE BAGHDAD

TO FOREIGN AND COMMONWEALTH OFFICE ~~191~~

TELEGRAM NUMBER 1054

RECEIVED IN
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31 DECEMBER 1969

-1 JAN 1970

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TOP COPY

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ADDRESSED TO FCO TELNO 1054 OF 31 DECEMBER RFI IMMEDIATE
BOARD OF TRADE TEHRAN AND KHORRAMSHAHR.

S S 'MYSTIC' IS DUE IN ABADAN ON 3 JANUARY
APPARENTLY ON CHARTER TO THE ARYA LINE (PIEROTTI'S
LETTER C2/2 OF 14 DECEMBER TO CHANCERY TEHRAN).

RECEIVED IN
REGISTRY No. 10
3 FEB 1970

NZ 3/324/1

THE ACTION OF ITS SISTERSHIP THE S S 'ROWANMORE' IN
REFUSING TO TAKE ON BOARD AN IRAQI PILOT, TO FLY THE IRAQI FLAG,
OR TO SUBMIT TO ANY KIND OF INSPECTION, WAS THE SUBJECT OF A
PROTEST TO ME BY THE DIRECTOR GENERAL OF THE POLITICAL
DEPARTMENT OF THE M F A (HAWLEY'S LETTER OF 18 DECEMBER
TO TRIPP). GRATEFUL IF YOU COULD ENSURE THAT THE
MASTER OF THE 'MYSTIC' IS INSTRUCTED TO COMPLY WITH IRAQI
PORT REGULATION ON ENTERING THE SHATT-AL-ARAB. (13)

F C O PASS IMMEDIATE BOARD OF TRADE
TEHRAN AND KHORRAMSHAHR.

MR. BALFOUR PAUL

[REPEATED AS REQUESTED]

FILES
A.M.T.D.
N.E.D.

[COPIES SENT TO B.O.T. SURREY HOUSE,
LAVINGTON ST.]

MR. GALLAGHER
MR. ARTHUR

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ps-j 111

*Mr. [unclear] I should think so.
Believe this the basis of [unclear]
MIRFAKHRAI's information on
Dams on the Shatt etc.*

*Mr. Macree
30/12 [unclear]*

NNNN
BBC B

B62 IRAQ: USSR TO SURVEY SHATT AL ARAB, BUILD SHIPYARD

NE
BAGHDAD RADIO) A CONTRACT WAS SIGNED THIS MORNING BETWEEN THE
IRAQI PORTS DEPARTMENT AND THE SOVIET TEKHNOEKSPORT ORGANISATION
FOR CONSULTANTS TO STUDY THE NAVIGATIONAL ROUTE (AL-SADAT AL-
MILAHYAH) IN SHATT AL-ARAB. ANOTHER CONTRACT WAS SIGNED FOR
ESTABLISHING A SHIPYARD.

*Key [unclear]
Israel [unclear]
relation
[unclear]*

END BBC MON 16/12 JL (KY) 1826

MR HINCHCLIFFE.

(for cutting).



RECEIVED IN
REGISTRY No. 10
- 1 JAN 1970

With the compliments of

NEQ 3/324/1

FOREIGN AND COMMONWEALTH
OFFICE

Cut P2 b
Iraq & Iran relations
file

AMM

21/12

LONDON, S.W.1

1969

The Iranian Letter to the Security Council (S/9200/Add.1)
(9 May, 1969).

LAST PAPER

Introduction

In the documents annexed to the Iranian letter of 9 May, 1969 to the President of the Security Council a number of references are made to British interference and exercise of pressure, in 1936/37 and before, to secure the interests of its "puppet government" (i.e. Iraq) to the detriment of Iran. The specific charges of interference can be summarised as:

- A. Insertion of Clause 4 into the Protocol attached to the Frontier Treaty of 4 July, 1937.
- B. Admiralty pressure to prevent agreement on a thalweg frontier in the Shatt al Arab.
- C. Admission by the Iraqi Government spokesman of British dominance and interference in 1937.
- D. An alleged commitment entered into by HMG in 1932 to secure Persian recognition of the independence of Iraq
- E. British support for the Iraqi complaint against Persia at the League of Nations in 1934/35.

2. Perusal of the Foreign Office records relating to the periods in question makes it clear that the Iranians have, with the possible exception of E above, no grounds for their allegations, and that they have used their material largely out of context, partly no doubt of deliberate purpose, but partly also through failure to comprehend the real meaning of the matters under study.

- A. Clause 4 of the Protocol annexed to the Treaty of 4 July, 1937.

3. The Iranian allegation (statement issued by the Imperial Ministry of Foreign Affairs on 27 April, 1969) reads as follows:

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"Furthermore, with due regard to the historical precedents since the conditions which were in force at the time of the conclusion of the Treaty, when British colonialism used all its strength to protect Iraq, inserting various clauses into that agreement, such as Clause 4 of the protocol annexed to that Treaty, ascertaining the special obligations of Iraq towards Britain

4. In January 1937 the Persians indicated to the Government of Iraq that they were prepared to agree to a frontier settlement which should:

- a. recognise the protocol of 1913 and the demarcation of 1914.
- b. give them an anchorage 4 miles long extending to the middle of the Shatt al Arab opposite Abadan.
- c. allow freedom of navigation in the Shatt to ships of all nations on payment of dues etc.
- d. allow free access to the warships of Iraq and Persia.
- e. provide for the conclusion of a mutual agreement on navigation, conservancy, etc. [Baghdad to Foreign Office Saving Telegram 3 of 23 January, 1937.]

5. The Iraqis were so impressed that without consulting HMG they submitted a draft treaty embodying the Persian proposals with minor amendments of their own. This draft [at 881/73/34 of 7 February, 1937] was considered not unsatisfactory by HMG which felt, nevertheless, that Iraqi anxiety for a settlement might be leading them to ignore certain issues, one of which was access to Basra for British ships of war. H.M. Ambassador in Baghdad was therefore instructed to draw the attention of the Iraqi Ministry of Foreign Affairs to this vital point [Draft Telegram at E 1546: 17 March, 1937].

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6. There is no further record until 19 June, 1937, when the Government of Iraq submitted a proposal to the Government of Persia that both should place on record, in notes to be exchanged at the time of signature of the Treaty, their agreement that there was nothing in it in any way prejudicial to the rights and obligations of Iraq under the Anglo-Iraqi Treaty of Alliance of 1930

[E 3393/73/34 of 22 June, 1937]. The Persians not only did not object to this proposal, but made an additional suggestion of their own, resulting in the incorporation of Clause 3 of the Protocol [E 3652/73/34 of 5 July, 1937].

7. It is thus therefore true to say that in 1937 HMG, then being Iraq's ally, perfectly correctly and justifiably drew attention to the need to preserve their ability to act under the Treaty of Alliance. The point was taken, and there is no evidence that any further representations were made. The Persian Government of the time accepted that Iraq had obligations under her Treaty with Great Britain, there being no evidence that they were subjected to any pressure to do so.

B. Allegations of Admiralty Pressure.

8. The Iranian allegation is that:

"In the question of fixing the Talweg line as the common frontier, a letter from the British Admiralty is in hand, which shows that in order to safeguard British interests the British Government preferred to leave the Shatt al Arab in the hands of its puppet Government, i.e. the Government of Iraq, which did not agree with fixing the common frontier at the Talweg line."

9. In the Foreign Office records there are many letters, minutes, etc. (not one only) of Admiralty origin in which the attitude adopted is somewhat as the Iranians allege. What they ignore is:

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- a. that the Admiralty and the British Government are not one and the same thing.
- b. Foreign Office opinion, which all along accepted that no effective settlement was possible which would deny the Persians a thalweg frontier at least opposite Abadan.

"A Frontier settlement based on a rectification at Abadan without the actual conclusion of a conservancy, or even a navigation convention is not all we, and still less the Admiralty, would wish, but anything is better than an indefinite extension of the present dispute." [E 6238/10/34 of 5 October, 1935].

"I do not personally think the heavens would fall if the Persians got the thalweg for a short distance off Abadan, provided that the Iraqis had rights of passage for themselves and their allies. But the Admiralty are strongly opposed to this, safeguards or no safeguards, and in theory their reasons are excellent. But we have to think not of what we would like, but of what we can get." [Minute by Mr. Rendel at E 7040/10/34 of 11 November, 1936].

- c. that the Admiralty, though strongly opposed to concessions which might interfere with access of warships to Basra, in fact failed to get its views accepted.
- d. that the Persian proposal of January 1937 for a thalweg frontier 4 miles long opposite Abadan was accepted and incorporated in the Treaty of 4 July, 1937.

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10. The whole allegation, therefore, based, as it appears to be, on a single document taken out of context, is completely untrue.

(See also Research Department minutes of 1 and 5 May, 1969.)

C. Admission by the Government of Iraq spokesman that in 1937 Iraq was under British domination.

11. The Iranian letter contains the following:

"The spokesman of the Iraq Foreign Ministry says that at the time of the conclusion of the Treaty, i.e. in the years 1936 and 1937, Iraq was under the pressure of colonialism, and the Treaty was signed in such a situation."

12. The facts are that Iraq had been an independent member of the League of Nations since 1932, but that her relations with Great Britain were governed by the Treaty of Alliance of 1930 which allowed for use of certain Iraqi airfields by the RAF, and for other military facilities in an emergency. There were also a number of British advisors in various Iraqi Ministries. The Iranian reference is to a statement carried on the Home Service of Baghdad Radio on 1 May, 1969 which said, inter alia:

"The conditions which prevailed in Iraq in 1936 and 1937 prove that Iraq, and not Iran, was under imperial domination. As a result of the conditions prevailing at the time the treaty was signed Iraq was forced to concede a part of its territory in the Shatt al Arab"

13. The Iraqi spokesman was of course speaking in refutation of an Iranian Foreign Ministry statement on 27 April which had inferred that Iran had been forced to sign an unfreely negotiated and unfair treaty as the result of British pressure, and was at pains to show that if pressure was used it was Iraq, and not Iran, who had been the sufferer. It is thus a characteristic

exaggeration of what took place, but does contain an element of truth in that Iraq was advised by her British ally to make concessions altering the river frontier opposite Abadan in favour of Persia. The final Foreign Office view of the situation was as follows:

"It is therefore submitted that the true interests of Iraq, and a fortiori of HMG, who have in addition to consider the position of the Anglo-Iranian Oil Co., demand that Iraq should conciliate Persia by granting her a thalweg frontier, at least opposite Abadan. If this were done with good grace, and the remaining details of the settlement could be satisfactorily adjusted, the gain in Persian goodwill should far outweigh the attendant risks". [E 7925/10/34 of 31 December, 1936].

14. While, therefore, it can be conceded that Great Britain did exert influence with Iraq to secure a settlement, it took the form of advice only, and with the object of securing a settlement which should be acceptable to both sides. Far from encouraging Iraq to take a tough line, and then putting pressure on Persia to comply, HMG in fact persuaded the Iraqis to make concessions which should go some way towards satisfying Persian demands. The influence exercised was beneficent and to Persia's advantage.

D. Allegations of Commitments entered into by HMG to secure Persian recognition of Iraqi independence.

15. The allegation is as follows:

"Again, in accordance with a document which is at hand, when Iraq obtained her quasi-independence, the British Government, i.e. the protector of Iraq, approached the Government of Iran with a view to making the Government

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recognise officially the independence of Iraq, giving assurance that, provided Iran recognised Iraq's independence she would enter into negotiations over the Shatt al Arab question so that the sound and logical requests of Iran should be obtained".

16. It seems that the document on which the Iranians rely is that containing the proposal submitted on behalf of HMG to the Government of Persia by Sir Robert Clive in April 1929, at a time when Iraq was still under British Mandate, the full text of which is as follows:

"You may now explain to Minister of Court the reasons which render impracticable any rectification of the frontier involving a cession of territory by Irak. You may at the same time give him a categorical assurance that if Persia will forthwith recognise Irak and will state in detail her practical grievances arising out of the present state of affairs and the safeguards which she requires, HMG will definitely use their good offices with the Iraki government to assist Persia to obtain satisfaction in regard to such of her desiderata as, upon examination, appear reasonable. Recognition of Irak is, however, the first step and it is essential for two reasons firstly, to prove Persia's desire for friendly relations with Irak, and even her good faith as she has frequently in the past promised recognition in return for the acceptance by HMG of the principle of equal judicial rights; secondly because Irak must inevitably be a party to the present negotiations, and the difficulties in the way of a settlement will be increased a hundredfold if direct negotiations are not possible. Minister of

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Court must realise that main cause of the unsatisfactory state of affairs lies in Persia's non-recognition, and all outstanding questions, including the Shatt al Arab, would probably have been satisfactorily settled long ago had it been possible for the two countries to discuss them in a friendly manner." [FO to Tehran Tel. 99 of 9 March 1929: E 1220/58/34].

17. These instructions were contained in a French translation handed to the Minister of Court by Sir Robert Clive on 2 April, 1929, the key passage of which reads as follows:

"Mon Gouvernement prêtera ses bons offices vis-à-vis le Gouvernement irakien pour aider la Perse à obtenir ses demandes raisonnables " [Sir R. Clive's despatch No. 153 of 2 April, 1929 to Sir Austin Chamberlain: E 1663/58/34].

18. It is not, therefore, true to say that the offer was one of entry into negotiations on the question of the Shatt al Arab, and the Persian reception of the offer was such as to make further progress along the lines suggested impossible.

E. British Support for the Iraqi Case before the League of Nations, 1934-1935.

19. The Iranian allegation is that:

"Iraq complained in 1934 to the League of Nations, on the support of its protector Government, in order to prevent Iran from exercising her sovereign rights in the Shatt al Arab. During the time the matter was before the League for discussion, and even after that, the British Empire was supporting Iraqi arguments by all means and with every diplomatic device."

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20. There are two mis-statements of fact in the above extract:

a. the decision to complain to the League was taken by the Government of Iraq on its own initiative and without reference to HMG.

b. the complaint was not about the Shatt al Arab, but about Persian refusal to recognise the validity of the frontier settlements reached in 1913/1914.

21. The attitude of HMG to the dispute is expressed in a letter from Sir John Simon to H.M. Ambassador in Tehran [E 7452/197/34 of 13 December, 1934] which reads as follows:

"The Persian Minister asked to see me today about the appeal of the Iraqi Government to the League of Nations on the subject of the Iraq-Persian boundary. The appeal is dated the 29th November, and was, I understand, filed with the Secretariat of the League on the 4th December. M. Ala said that the Persian Government found it difficult to believe that this action of the Iraqi Government had been taken without consultation with us and that, while he realised that the Persian Government had no right to demand an answer to their question, they would nevertheless much like to be informed on the point. The Persian Minister's second point was the usual appeal to us to give his Government in advance some assurance that when we dealt with the matter as a member of the Council, Persia might count on our giving her case our favourable consideration.

2. I told the Persian Minister, as regards the first point, that although we had known of the importance which the Iraqi Government attached to the question of the boundary and from time to time had heard from them on the subject, the action of the Iraqi Government in appealing to the League of Nations was taken entirely upon their own initiative.

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3. As regards the question of our attitude at Geneva as a member of the Council when the case came before that body he would appreciate that HMG could not in any way commit themselves in advance in respect of a case which would obviously have to be decided on its merits when the time came. I suggested to the Minister, however, that the Persian Government would do well to consider very carefully the legal aspect of their position, in regard to which they would be well advised to take the best available legal opinion."

22. This is not, of course, the whole story. Both before and after their complaint to the League the Iraqis leant heavily on HMG for advice and support, and the Iranians in their perusal of the records in the PRO and IOL can hardly have failed to remark the following:

a. Sir Robert Vansittart's advice to Nuri Pasha Said (then Iraqi Minister of Foreign Affairs), in September 1934, to seek a direct settlement with the Persians, but to make it plain that Iraq was prepared to go to the League if necessary [E 5837 and 5903].

b. Nuri Pasha's private consultations with Foreign Office officials on the correct drafting of the complaint (for use as and when required) in which he had the benefit of advice from Messrs. Becket, Strang and Rendel, who suggested a redraft which the Government of Iraq eventually adopted [E 6006/197/34].

c. H.M. Ambassador in Baghdad's telegram of 23 November, 1934 informing HMG that the Iraqis had practically decided to appeal to the League, and asking for support. The reply was that the decision to appeal must be the Government of Iraq's alone, but if they did so "the UK Delegation at Geneva would give them all such proper assistance and support in this matter as lies within their power." [E 7050].

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d. Mr. Rendel's minute of 15 December, 1934. "We have been so closely concerned with the circumstances leading up to the appeal, and so frequently consulted by the Iraqis over the whole affair" [E 7452/197/34].

23. Perusal of the records shows also that in the course of discussion in the League HMG consistently supported the Iraqis in their efforts to prevent the Persians, with the support of the Italian rapporteur, from obtaining concessions in the Shatt al Arab before the question of the frontier, which the Persians had themselves denounced, was satisfactorily settled.

24. The Persians were not, however, left in any doubt as to HMG's attitude, and on 30 January, 1935 Sir Robert Vansittart told the Persian Minister, in response to a request to put pressure on Iraq, that he could hope for nothing of the sort, and that he (Sir Robert) personally felt that the Government of Persia had very unwisely rejected previous proposals for settlement, and that they should be the last to be surprised at the Iraqi appeal to the League. It was a perfectly correct and proper procedure. Looked at not only from Tehran, therefore, it could be said that HMG had supported Iraq consistently throughout the whole affair.

Middle East Section,
Research Department.
11 July, 1969.

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